

TESTIMONY OF WITNESSES

HEARINGS
BEFORE THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES

NINETY-THIRD CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 803

A RESOLUTION AUTHORIZING AND DIRECTING THE
COMMITTEE ON THE JUDICIARY TO INVESTIGATE
WHETHER SUFFICIENT GROUNDS EXIST FOR THE
HOUSE OF REPRESENTATIVES TO EXERCISE ITS
CONSTITUTIONAL POWER TO IMPEACH

RICHARD M. NIXON

PRESIDENT OF THE UNITED STATES OF AMERICA

BOOK III

HENRY E. PETERSEN, CHARLES W. COLSON, AND
HERBERT W. KALMBACH

JULY 12, 15, 16, 17, 1974



U.S. GOVERNMENT PRINTING OFFICE

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WASHINGTON : 1974

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IMPEACHMENT INQUIRY

FRIDAY, JULY 12, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10:25 a.m., in room 2141, Rayburn House Office Building, the Hon. Peter W. Rodino, Jr. (chairman) presiding.

Present: Representatives Rodino (presiding), Donohue, Brooks, Kastenmeier, Edwards, Hungate, Conyers, Eilberg, Waldie, Flowers, Mann, Sarbanes, Seiberling, Danielson, Drinan, Rangel, Jordan, Thornton, Holtzman, Owens, Mezvinsky, Hutchinson, McClory, Smith, Sandman, Railsback, Wiggins, Dennis, Fish, Mayne, Hogan, Butler, Cohen, Lott, Froehlich, Moorhead, Maraziti and Latta.

Impeachment Inquiry staff present: John Doar, special counsel; Albert E. Jenner, Jr., minority counsel; Samuel Garrison III, deputy minority counsel; and Bernard Nussbaum, counsel; Evan Davis, counsel; Richard Gill, counsel; Michael Conway, counsel; and Gary Sutton, counsel.

Committee staff present: Jerome M. Zeifman, general counsel; Garner J. Cline, associate general counsel; Alan A. Parker, counsel; Daniel L. Cohen, counsel; William P. Dixon, counsel; Arden B. Schell, counsel; Franklin G. Polk, associate counsel; Thomas E. Mooney, associate counsel; Michael W. Blommer, associate counsel.

Also present: James D. St. Clair, special counsel to the President; John A. McCahill, assistant special counsel; and Malcolm J. Howard, assistant special counsel.

The CHAIRMAN. The committee will come to order.

Mr. Petersen, will you please stand?

Mr. Petersen, you have the right to remain silent and not to provide any testimony or information which may tend to incriminate you, but if you do testify, anything you say here may be used against you in any other legal proceeding.

You have the right, of course, to consult with an attorney prior to answering any question or questions. Counsel may accompany you for the purpose of advising you of your constitutional rights. You have been provided, I understand, with a copy of the Rules of the House and the rules of the committee.

Will you please raise your right hand?

Do you solemnly swear that testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PETERSEN. I do.

The CHAIRMAN. Will you please state your name and will you please identify your associates?

Mr. PETERSEN. My name is Henry Petersen, I am Assistant Attorney General, Criminal Division, U.S. Department of Justice. I have here Philip White who is not here as a testimonial witness but as an associate who has helped me to keep track of all the paraphernalia related to this matter. He is a long time friend, a long time associate, a very valuable aid.

The CHAIRMAN. Mr. Doar.

TESTIMONY OF HENRY PETERSEN, ASSISTANT ATTORNEY GENERAL, CRIMINAL DIVISION, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY PHILIP T. WHITE

Mr. DOAR. Mr. Petersen, will you please tell the members of the committee briefly something about your professional background?

Mr. PETERSEN. Yes, sir. I attended Georgetown University and Columbus School of Law in Washington, D.C. I attended law school while I was employed with the Federal Bureau of Investigation, having started there in 1947.

When I finished law school, I transferred to the Department of Justice as a law clerk, took the bar in June 1951, was admitted to the bar in November of that year. Approximately in December, I transferred to the Criminal Division of the Department of Justice, where I have been employed ever since.

Mr. DOAR. Could you briefly indicate some of the positions that you have held in the Criminal Division of the Department of Justice?

Mr. PETERSEN. Staff attorney in the Criminal Division until approximately 1958, when I was given a supervisory position as Deputy Chief of the Organized Crime Section.

I served in that position until 1966, when I was made Chief of the Organized Crime Section.

From 1966 until 1969, I occupied that position and in 1969, I was promoted to Deputy Assistant Attorney General of the Criminal Division. I occupied that position until October of 1971, when I became Acting Assistant Attorney General of the Criminal Division upon the resignation of the Assistant Attorney General.

I was appointed Assistant Attorney General, a recess appointment, in January of 1972 and confirmed for that position in February of 1972. I have occupied that position ever since.

Mr. DOAR. As the head of the Criminal Division at the Department of Justice, how many attorneys do you supervise?

Mr. PETERSEN. There are approximately 400 and—well, there are approximately 400 authorized and there are on board about 365, 370 lawyers.

Mr. DOAR. Do you also oversee the criminal work of the U.S. attorney's offices across the country?

Mr. PETERSEN. Yes sir.

Mr. DOAR. And whom do you report to in the Department of Justice?

Mr. PETERSEN. Well, I report to the Deputy Attorney General or to the Attorney General as the circumstances warrant.

Mr. DOAR. In connection with the matters relating to the Watergate break-in and the Watergate coverup, to whom did you report within the Department of Justice?

Mr. PETERSEN. I reported to the Attorney General, Mr. Kleindienst.

Mr. DOAR. Mr. Petersen, there has been some considerable testimony with respect to delivery of documents by the CIA, including some photographs of Howard Hunt and Gordon Liddy. I wonder if you could just briefly summarize or recap for the committee just how it was that those documents came into the files of the Department of Justice?

Mr. PETERSEN. Sometime prior to October of 1972, Mr. Silbert, who was the attorney in charge of the investigation of the Watergate break-in caused the Federal Bureau of Investigation to direct a number of questions to CIA personnel. CIA personnel were apparently instructed by their superiors that they should not answer and that the questions propounded were answered by them for their superiors. Their superiors put those responses in a package.

Mr. Helms and Mr. Larry Houston, who was counsel to the CIA at that time, brought those over to the Attorney General sometime in October.

Mr. DOAR. 1972?

Mr. PETERSEN. 1972.

I was summoned to the Attorney General's office and when I arrived, both Mr. Helms and Mr. Houston were there. There was handed to me a package which consisted of a memorandum addressed to the Attorney General—or a letter, I should say, with enclosures. It was suggested that in the interest of security, that information should be kept in my confidence.

Mr. Helms then left and Mr. Houston and I proceeded to my office. When I took one look at the package and saw that they were responses to questions that related to the Watergate investigation, I told Mr. Houston that obviously, Mr. Silbert needed this information and he agreed, but urged that it be kept in a secure place and under security conditions.

Thereafter, Mr. Silbert and I went over those questions in my office and it became too cumbersome a procedure and finally gave him the documents to take over there provided he, too, kept them under security conditions.

Those inquiries gave rise to other inquiries and we met with CIA personnel, I think sometime in November, to direct those inquiries to them and they promised to develop the additional information for us.

Thereafter, they replied again by memorandum or letter, this time addressed to me, in December, which purported to answer our additional questions.

Mr. DOAR. Let me interrupt you.

Was your second set of questions in writing or orally?

Mr. PETERSEN. Our second set of questions, as I recall, were given to them orally and they made notes of our inquiries. Then when they came back, the responses, the questions and the responses, had been reduced to writing in question and answer form.

Mr. DOAR. I presume that Mr. Silbert, after examining the first set of responses, felt the need to inquire further from the CIA, and this was the cause of the second set of questions?

Mr. PETERSEN. That is correct.

Mr. DOAR. Okay. Would you continue, please?

Ms. HOLTZMAN. Point of inquiry, Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I wonder if counsel could establish some dates here about when Mr. Silbert caused the inquiry and when this meeting took place and so forth? I don't think any dates have been established.

Mr. DOAR. Could you fix the time that the first letter went over to the CIA?

Mr. PETERSEN. A first letter did not go over to CIA. The inquiries went to CIA sometime prior to October and the——

Mr. DOAR. Now, were these inquiries oral or in writing?

Mr. PETERSEN. They were first propounded by FBI agents in the course of the interrogation of witnesses.

Mr. DOAR. I see.

Mr. PETERSEN. That occasioned the memorandum from the Attorney General dated October 24, 1972, which very briefly——

Mr. DOAR. Would you briefly summarize it?

Mr. PETERSEN [reading].

Mr. Earl Silbert, Principal Assistant U.S. Attorney for the District of Columbia and his associates . . . recently met with an officer of CIA on questions concerning the principals in the Watergate indictment.

It goes without saying that the CIA will cooperate fully with the Department of Justice on this matter. It is important to CIA, however, that the information available to it be carefully handled to avoid revelation of foreign intelligence methods and to avoid misunderstandings. CIA had no involvement whatever in the incident at the Watergate.

CIA has previously furnished to the FBI a considerable volume of information on the individuals mentioned in the indictment. Copies of the memoranda containing this material are attached.

Mr. Silbert has requested additional details on the question at Tab A. The information available to CIA on these questions is noted in this same attachment. CIA is prepared on your request to expand on these replies.

As will be noted in the attached material, a number of the items reported reflect or reveal sensitive intelligence matters. These are reported in the confident belief that their classified nature will be maintained within the most restricted circle possible and that CIA will be fully consulted with respect to any use the Department of Justice may believe it is essential to make of them.

Thereafter——

Mr. WALDIE. Mr. Chairman, may I ask the Chair a question?

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. Do we have a copy of that memorandum in our evidence books?

Mr. DOAR. I don't believe we do, Congressman Waldie.

Mr. WALDIE. May we have that, Mr. Chairman?

Mr. DOAR. Is it possible for the committee to make copies of that?

Mr. PETERSEN. I think it was classified secret. I think it has all been declassified and I will be glad to make—these are Xerox copies.

Mr. DOAR. Why don't you summarize all the documents first. Then we will mark them Petersen exhibits 1 through so and so and make them up.

Mr. WALDIE. That will be fine. I just want them for the record.

The CHAIRMAN. They will be entered in the record.

Mr. DOAR. We will refer to the first document that you referred to as a memorandum from you to the Attorney General dated October 24 as "Petersen Exhibit 1."

Mr. PETERSEN. That memorandum, if you will excuse me, Mr. Doar, is dated October 24, 1972.

Mr. DOAR. Dated October 24, 1972.

[The document referred to was marked "Petersen Exhibit No. 1" and follows.]

[Petersen Exhibit No. 1]

SECRET

2400 1972

MEMORANDUM FOR: The Attorney General

SUBJECT: Watergate Incident

1. Mr. Earl Silbert, Principal Assistant United States Attorney for the District of Columbia, and his associates, Messrs. Seymour Glanzer and Donald E. Campbell, Assistant United States Attorneys, recently met with an officer of the CIA on questions concerning the principals in the Watergate indictment.

2. It goes without saying that CIA will cooperate fully with the Department of Justice on this matter. It is important to CIA, however, that the information available to it be carefully handled to avoid revelation of foreign intelligence methods and to avoid misunderstandings. CIA had no involvement whatsoever in the incident at the Watergate.

3. CIA has previously furnished to the FBI a considerable volume of information on the individuals mentioned in the indictment. Copies of the memoranda containing this material are attached.

4. Mr. Silbert has requested additional details on the questions at Tab A. The information available to CIA on these questions is noted in this same attachment. CIA is prepared on your request to expand on these replies.

5. As will be noted in the attached material, a number of the items reported reflect or reveal sensitive intelligence matters. These

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SENSITIVE INTELLIGENCE SOURCES
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EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE 25X, 26X, 27X, 28X, 29X, 30X, 31X, 32X, 33X, 34X, 35X, 36X, 37X, 38X, 39X, 40X, 41X, 42X, 43X, 44X, 45X, 46X, 47X, 48X, 49X, 50X, 51X, 52X, 53X, 54X, 55X, 56X, 57X, 58X, 59X, 60X, 61X, 62X, 63X, 64X, 65X, 66X, 67X, 68X, 69X, 70X, 71X, 72X, 73X, 74X, 75X, 76X, 77X, 78X, 79X, 80X, 81X, 82X, 83X, 84X, 85X, 86X, 87X, 88X, 89X, 90X, 91X, 92X, 93X, 94X, 95X, 96X, 97X, 98X, 99X, 100X
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are reported in the confident belief that their classified nature will be maintained within the most restricted circle possible and that CIA will be fully consulted with respect to any use the Department of Justice may believe it essential to make of them.

\$
Richard Helms
Director

Attachments:

As stated

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SECRET

5 JUL 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Everett Howard Hunt, Jr.

1. Reference is made to our memorandum dated 27 June 1972 concerning Subject's use of the alias Edward V. Hamilton and Edward J. Hamilton, and to your request of 30 June 1972 for an exemplar of Subject's alias signature(s) and information as to other aliases or documentation issued him by this Agency.

2. Review of Central Intelligence Agency files has failed to disclose any exemplars of Subject's alias signatures. The name Edward J. Hamilton was erroneously recorded at one point as Edward V. Hamilton; Agency records reflect that it was entered in that fashion on Subject's District of Columbia Driver's Permit.

3. Additional checks have disclosed that Subject was to use the District of Columbia Driver's Permit for only one week and was to exchange it in Florida for a Florida Driver's License in the same alias.

4. The records of this Agency further show that on or about 26 September 1960, Subject was also to be issued a State of Massachusetts Driver's License and various unspecified club and organization cards in the name of Edward J. Hamilton. Where necessary, they were to indicate that Subject was a resident of Providence, Rhode Island.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-11-80 BY 6032

SECRET

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 10-11-80 BY 6032

5. Detailed Agency records covering the period in question have been destroyed, and there is no specific information in the files of this Agency to the effect that Subject was issued a Social Security Card or Insurance Policy bearing the name Edward J. (or Edward Joseph) Hamilton.

6. With respect to other alias or documentation issued to Subject, we are searching our records and will advise as soon as possible.

7. This information is being provided in confidence and should not be disseminated outside of your Bureau. Please refer all correspondence in this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE

ERNEST P. SEISS

fu Howard J. Osborn
Director of Security

SECRET

MEMORANDUM

2. Aside from the above contact with respect to the recorder, there were contacts with Mr. Hunt with respect to false documents and disguise for himself and an associate. He was loaned a clandestine camera, which was returned. We developed one roll of film for Mr. Hunt, of which we have copies showing some unidentifiable place, possibly Rand Corporation. We have had no contact whatsoever with Mr. Hunt subsequent to 31 August 1971 on this matter.

WARNING NOTICE
SENSITIVE INTELLIGENCE SOURCES
AND METHODS INVOLVED

CLASSIFIED BY 05647
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF E. O. 11652, EXEMPTION CATEGORY:
§ 1.5(a)(1) (2) or (3) (b)(1) (2) or (3)
APPROVAL AUTHORITY DECLASSIFIED ON
Approved by D-1

QUESTION:

a. Did Hunt know that Mullen Company provides cover for the Agency?

ANSWER:

Mr. Hunt retired from the Agency on 30 April 1970, and on 1 May 1970 became a legitimate employee of Robert R. Mullen and Company. As a principal officer of the Robert R. Mullen and Company, Mr. Hunt was aware of two present Agency cover placements with the firm. The Federal Bureau of Investigation was provided with data concerning this matter in a memorandum dated 21 June 1972, a copy of which is attached.

SECRET

CLASSIFIED BY <u>CS647</u>
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF E. O. 11652, EXEMPTION CATEGORY:
\$ 5.11 (2) (3) vs (1) (circle one or more)
AUTHORITATIVELY DECLASSIFIED ON
<u>Impossible to Determine</u>
(unless impossible, insert date or event)

21 JUN 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Robert R. Mullen Company

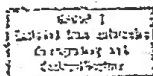
1. Reference is made to the verbal request of 20 June 1972 for any available information concerning the Robert R. Mullen Company and Interprogress.

2. The utilization of Robert R. Mullen and Company dates back to June 1963, and grew out of the recommendation of a long time cooperative CIA asset. Mr. Mullen has provided certain sensitive cover support overseas for Agency employees.

3. In addition, Mr. Mullen was instrumental in the formation of the Cuban Freedom Committee. Mr. Mullen managed to keep a low profile, and avoided public identification with it, except that his company prepared some brochures for the committee. Mr. Mullen was also utilized by the Agency because of his affiliation with another private firm.

4. As of 1 May 1970, Mr. Everette Howard Hunt, who had just retired from the Central Intelligence Agency, became a legitimate employee of Mr. Mullen. In July 1971, Mr. Hunt informed this Agency that he had been assigned to the President's White House Staff but continued to devote part of his time to the Robert R. Mullen Company. Mr. Hunt was aware of two present cover placements under Robert R. Mullen and Company.

SECRET



5. Since 1963, a total of eight people of the Mullen Company have been cleared and made willing of Agency ties, mainly in providing CIA cover overseas. It is to be noted that Mr. Edward Macher, Mullen's bookkeeper and accountant, is a retired CIA Finance Officer.

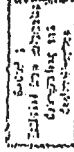
6. Interprogres is a new subsidiary of the Mullen Company formed in 1971, as a result of contacts developed at the Zagreb Trade Fair in Yugoslavia. It is a pilot operation aimed at expanding East-West commercial relationships. At least two overseas assets have tangential links of promoting the acceptance of this company as a Mullen subsidiary.

7. In view of the extreme sensitivity of this information concerning the current use of the Robert R. Mullen Company, it is requested that this report be tightly controlled and not be disseminated outside your Bureau. Please transmit any information on this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

Howard J. Osborn
Howard J. Osborn
Director of Security

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SECRET

CENTRAL INTELLIGENCE AGENCY

Washington, D.C. 20505

7 July 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

SUBJECT : Everette Howard Hunt, Jr.

1. This memorandum is forwarded in connection with our memorandum of 5 July on Subject in response to your request of 30 June 1972 for information as to any other aliases or documentation issued Subject by this Agency.

2. During July and August 1971, Subject was issued two sets of alias documentation in the names of George F. Leonard and Edward Joseph Warren. Details of these documents are available if desired, but no signature exemplars are available. He was also provided certain other operational support items. We understood that these were to be used in connection with attempts to ascertain the facts of cases of document leaks. These matters were not in any way connected to Agency operations but were supplied in response to a duly authorized extra-Agency request. This assistance was terminated when Subject's requests escalated beyond appropriate limits. No further support was extended to Subject after August 1971.

3. This information is being provided in confidence and should not be disseminated outside your Bureau. Please refer matter to me.

Sincerely,

Vernon A. Walters

Vernon A. Walters

Lieutenant General, USA

Acting Director

EXEMPT FROM GENERAL DECLASSIFICATION
OF E.O. 11652, EXECUTIVE ORDER
§ 65(1), (2), (3) or (4) (which may or may not
be automatically declassified on)

APPROVAL OF DCI

(when required, attach date of review)

SECRET

WARNING NOTICE
SENSITIVE INTELLIGENCE SOURCES
AND METHODS INVOLVED

SECRET

QUESTION:

b. When were Martinez's last contacts with the Agency and does he have any means of communicating with the Agency now and, if so, how?

ANSWER:

Mr. Martinez Careaga was last met by an Agency representative on 6 June 1972. Subsequent to the Watergate incident, the Agency decided to terminate any further contact with Mr. Martinez Careaga. He was not approached or otherwise informed of this decision, and we have not spoken with him since. The Federal Bureau of Investigation was provided with a summary of Mr. Martinez Careaga's Agency affiliations by memorandum dated 20 June 1972, a copy of which is attached. Mr. Martinez has no established method of contacting the Agency, but he presumably could do so through friends or directly by open telephone or visit.

CLASSIFIED BY 256047
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 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20 JUN 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Eugenio Rolando Martinez Careaga

1. Mr. Martinez was born on 3 July 1922 in Antemisa, Pinar del Rio, Cuba, and is a naturalized United States citizen. He was educated at the University of Havana and he has a BS degree. He also has two years additional work in the School of Medicine. Previously married to a Cuban from whom he is divorced, Mr. Martinez is currently married to a United States citizen.

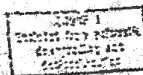
2. Mr. Martinez was recruited by the Agency in January 1961 in connection with Cuban operations. The project to which he was assigned was terminated in 1969. Since that time, Mr. Martinez has been on a part-time retainer to report on the Cuban exile community. In connection with this activity he was last met on 6 June 1972 and has been unable to be contacted since 14 June 1972. For these part-time activities, Mr. Martinez has received a retainer of \$100.00 per month since 1969. Prior to that time he received \$8,100.00 per year for his full-time operational activity. It is to be noted that Mr. Martinez is a real estate partner of Mr. Bernard L. Bark.

3. The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information on this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

Howard J. Casborn
SECRET

Howard J. Casborn
Director of Security



QUESTION:

c. Would Hunt and Mc Cord have had occasion to work with one another while they were both at the Agency?

ANSWER:

Mr. Hunt was involved in certain operational activities relating to South American countries, and to Cuba. Mr. McCord was not assigned to the Bay of Pigs program in the early 1960's, and his more recent responsibilities until his retirement from the Agency in August 1970, established no such official ties. This does not preclude the possibility, however, that he might have developed a personal acquaintance with Mr. Hunt which would not be recorded in the Agency's official personnel or security records. The Federal Bureau of Investigation was apprised of this information by memorandum dated 21 June 1972, a copy of which is attached.

SECRET

CLASSIFIED BY	036047
EXEMPT FROM GENERAL DECLASSIFICATION	
SCHEDULE OF E.O. 11652, EXEMPTION CATEGORY	
§ 52(c) (2) (b) or (3) (circle one or more)	
AUTOMATICALLY DECLASSIFIED ON	
Impossible to determine	
(unless impossible, insert date)	

SECRET

21 JUN 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION: Mr. Arnold L. Parham

SUBJECT: James Walter McCord, Jr.
Everette Howard Hunt, Jr.

1. Reference is made to your request for information concerning the possible official Agency association of Mr. James Walter McCord, Jr. and Mr. Everette Howard Hunt, Jr. with certain Cuban-born individuals involved in the Watergate incident of 17 June 1972.

2. This is to advise that the duties and area assignments of Mr. McCord as an Agency employee provides no indication that he would have been involved in Cuban matters. He was not assigned to the Bay of Pigs program in the early 1960's and his more recent responsibilities through August 1970, established no such ties. This does not preclude the possibility, however, that he might have developed personal acquaintances which are not recorded in official personnel and security records. Most certainly, we have no pertinent information since his retirement.

3. As an Agency employee, Mr. Hunt was involved in certain operational activities relating to South American countries. He is known to have had some ties with Mr. Bernard L. Barker, who was born on 17 March 1917, at Havana, Cuba, of American parents.

SECRET

~~SECRET~~

4. The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information on this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

Howard J. Osborn
Howard J. Osborn
Director of Security

~~SECRET~~

QUESTION:

d. Would Barker and Hunt have associated together in the past in connection with Agency work:

ANSWER:

Mr. Hunt was assigned to the Agency's Cuban Operations in the Miami, Florida, area from June 1960 through October 1961. In that connection he was Mr. Barker's supervisor as of September 1961. As noted in paragraph c above, Mr. Hunt's Agency activities were summarized in a memorandum to the Federal Bureau of Investigation dated 21 June 1972. A biographic summary on Mr. Hunt, forwarded to the Federal Bureau of Investigation on 19 June 1972, is attached. Also attached is a summary of Mr. Barker's Agency activities forwarded to the Federal Bureau of Investigation on 20 June 1972.

SECRET

CLASSIFIED BY <u>05647</u>
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF E. O. 11652, EXEMPTION CATEGORY:
§ 55(1) <u>(C)</u> (2) or (3) (circle one or more)
Automatically DECLASSIFIED ON
<u>Impossible to Determine</u>
(select appropriate, insert date or event)

20 JUN 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

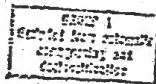
ATTENTION : Mr. Arnold L. Parham

SUBJECT : Bernard L. Barker

1. Bernard L. Barker was born on 17 March 1917 at Havana, Cuba, of American parents. He is a former Captain in the United States Air Force in World War II and began to cooperate with the Agency in 1959 in Havana and Miami. He was a regular contact of the Federal Bureau of Investigation in Cuba when turned over to the Central Intelligence Agency in mid-1959. He was used as source of political information in Cuba, and was evacuated from Cuba in early 1960, and arrived in the Miami area in January 1960.

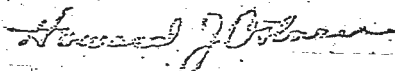
2. He was hired by the Agency in April 1960. He was widely known among Cuban exiles as being affiliated with this Agency. He was used by an operational unit to report on Cuban exile activities with emphasis on impending exile raids against Cuba. At one time he lost his United States citizenship as a result of accepting a position with the Cuban Police Department. His United States citizenship has been restored. He was terminated by the Agency on 31 July 1966 to accept employment by the Rauland Corporation, a subsidiary of the Zenith Radio Corporation in Chicago, Illinois.

SECRET



3. The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information on this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:



Howard J. Osborn
Director of Security

SECRET

JUN 1972

BIOGRAPHIC DATA

NAME : HUNT, Everette Howard, Jr.
 GRADE : GS-15 (August 1953)
 DATE OF BIRTH : 9 October 1918
 PLACE OF BIRTH : Hamburg, New York
 EOD WITH OSS : January 1945
 EOD WITH AGENCY : 8 November 1949

 RETIREMENT FROM AGENCY: 30 April 1970
 EDUCATION : 1936 - 1940
 Brown University (A. B. Degree/Ea
 1950
 Berlitz School of Languages - Spani
 PRIOR EMPLOYMENT : 1942 - 1943
 The March of Time, New York City
 Script writer
 1943
 Time, Incorporated - War Correspo
 South Pacific
 1946 - 1949
 Free Lance Writer
 1948 - 1949
 Economic Cooperative Administrati
 Paris, France
 MILITARY SERVICE : 1940-1942, U.S. Navy, Ensign
 1943-1946, U.S. Air Force, 1st. L

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QUESTION:

a. It was indicated that Hunt had some pocket litter, including a driver's license and Social Security card with the name Edward J. Hamilton. What, if anything, do we know about this?

ANSWER:

Mr. Hunt was issued the alias Edward J. Hamilton on 30 September 1960. This name was erroneously recorded at that time on a District of Columbia Driver's Permit as Edward V. Hamilton. Mr. Hunt was supposed to use the District of Columbia Driver's Permit for only one week. On or about 26 September 1960, Mr. Hunt was issued various unspecified organizational cards in the name of Edward J. Hamilton. We cannot specifically state at this time that a Social Security card was or was not included, but it is likely to have been. The Federal Bureau of Investigation was advised of these particulars by memoranda dated 27 June and 5 July 1972, copies of which are attached.

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SCHEDULE 001. C. 1001. EXTENSION CATEGORY:	
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RECORDS

PROMOTION PROGRESS : November 1949-----GS-13 (E)
 June 1951-----GS-14
 August 1953-----GS-15

INVESTIGATIONS : OSS-----1945
 FBI-----1949
 CIA (Spouse)-----1953
 CIA-----1970

SUBSEQUENT EMPLOYMENT : April 1970 - Robert R. Muller & C
 1729 H Street, N.W.
 Washington, D.C. 200

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27 JUN 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Everette Howard Hunt, Jr.

1. Reference is made to your discussion with Mr. Leo J. Dunn of this Office on 26 June 1972, relative to the use of an alias by Subject.

2. Subject was issued the alias Edward V. Hamilton on 30 September 1960, for use on a District of Columbia Drivers Permit. His address was shown as 331 First Street, Northeast, Washington, D. C. Biographic data reflected his birth at Hamburg, New York, on 9 October 1918. He was described as 5' 10" tall, weighing 17½ pounds, and having brown hair and blue eyes.

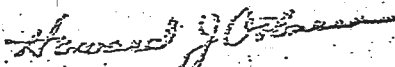
3. On 26 June 1963, a Post Office Box was established for Subject in the name of Edward J. Hamilton at P. O. Box 10233, Woodridge Station, Washington, D. C. This facility was cancelled effective 27 July 1965.

4. During the 1963-1970 period, Subject was seriously considering the publication of a book, Give Us This Day, under the alias Edward J. Hamilton. The manuscript portrayed the events of the Bay of Pigs in considerable detail. As of this date, the story has not been published.

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5. The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information in this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:



Howard J. Osborn
Director of Security

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5 JUL 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION: Mr. Arnold L. Parham

SUBJECT: Everett Howard Hunt, Jr.

1. Reference is made to our memorandum dated 27 June 1972 concerning Subject's use of the aliases Edward V. Hamilton and Edward J. Hamilton, and to your request of 30 June 1972 for an exemplar of Subject's alias signature(s) and information as to other aliases or documentation issued him by this Agency.

2. Review of Central Intelligence Agency files has failed to disclose any exemplars of Subject's alias signatures. The name Edward J. Hamilton was erroneously recorded at one point as Edward V. Hamilton; Agency records reflect that it was entered in that fashion on Subject's District of Columbia Driver's Permit.

3. Additional checks have disclosed that Subject was to use the District of Columbia Driver's Permit for only one week and was to exchange it in Florida for a Florida Driver's License in the same alias.

4. The records of this Agency further show that on or about 26 September 1960, Subject was also to be issued a State of Massachusetts Driver's License and various unspecified club and organization cards in the name of Edward J. Hamilton. Where necessary, they were to indicate that Subject was a resident of Providence, Rhode Island.

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FBI - NEW YORK

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5. Detailed Agency records covering the period in question have been destroyed, and there is no specific information in the files of this Agency to the effect that Subject was issued a Social Security Card or Insurance Policy bearing the name Edward J. (or Edward Joseph) Hamilton.

6. With respect to other alias or documentation issued to Subject, we are searching our records and will advise as soon as possible.

7. This information is being provided in confidence and should not be disseminated outside of your Bureau. Please refer all correspondence in this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

ERNAL P. SEISS

fu Howard J. Osborn
Director of Security

2 OCT 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation
ATTENTION: Mr. Arnold L. Parham
SUBJECT: Thomas Christopher Amato

1. Reference is made to the request of Mr. Gene Geis, of the Alexandria, Virginia, Office of your Bureau on 28 September 1972, for information concerning the Subject.

2. Records of the Central Intelligence Agency reflect that Thomas Christopher Amato was born on 24 July 1911 at Providence, Rhode Island. He resided in Rhode Island until 1939, and in Connecticut from 1939 to 1949. At that time he came to the Washington, D. C., area. Mr. Amato was married to Esther Marie Hansen Amato on 26 November 1936. Mr. Amato's wife was born on 21 December 1903 at Drammen, Norway. Records of this Agency indicate that as of 1955 Mrs. Amato was in the process of becoming an American citizen.

3. Mr. Amato was security approved as a Government Printing Office detailee to the Central Intelligence Agency on 1 May 1950. The approval followed a background investigation completed by your Bureau in March 1950. Having had 22 years of prior experience as a Photoengraver, Mr. Amato was hired in that capacity by the Central Intelligence Agency in August 1952.

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SCHEDULE OF E.O. 11652, PAR. 1	
EXEMPTED BY	100-100000
EXEMPTION CODE	100-100000
EXEMPTION DATE	100-100000
EXEMPTION AUTHORITY	100-100000
EXEMPTION REVIEW DATE	100-100000
EXEMPTION REVIEW AUTHORITY	100-100000

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His background investigation was updated by this Agency at that time with favorable results. Mr. Amato was satisfactorily employed by this Agency from August 1952 until his mandatory Civil Service retirement on 13 July 1971. His service included tours in Japan from April 1955 to July 1957, and in Mexico City, Mexico, from August 1963 to August 1970. Upon retirement he listed his forwarding address as 380 North Point Court, Satellite Beach, Florida. The files of this Agency contain no data on Mr. Amato subsequent to his retirement.

4. In April 1971 Mr. Amato completed an employment resume for his personal use after retirement. A copy of the resume is being forwarded with this memorandum.

5. This information is being provided in confidence and should not be disseminated outside of your Bureau. Please address all correspondence on this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

Howard J. Osborn
Director of Security

Att

RESUME

Thomas C. Amato

Mr. Thomas C. Amato, after 22 years of commercial experience as a PhotoEngraver, joined The Central Intelligence Agency in August 1952 in the same capacity. Until his retirement in July 1971, he was assigned to one of the Agency's technical components involved in an assortment of technical and scientific programs associated with the overall intelligence mission of the United States Government.

As a PhotoEngraver, Mr. Amato's duties included reproduction of certain designs and printed matter on various metals such as zinc, copper, brass and magnesium. This entailed Process Photography, in which metals were coated with sensitive solution developed then etched in various acid baths (Nitric, Iron Perchloric) to a depth suitable for letter-press printing. The routing machine was used to rout all unnecessary metallic areas not to be printed. In the "Finishing" step, connections, deletions and additions of engraving were made by hand, using special tools (gravers).

As a PhotoEngraver he also made printed circuits, did chemical milling, manufactured rubber stamps, copied engravings and set type by means of Thermoplastic, sheet rubber and hydraulic hot press.

Later in his career he worked as a "Steel Engraver" which entailed burnishing and polishing a piece of flat steel, coating with an acid resist, then using a manual Pantograph to scribe lettering or designs through the resist, after which a weak solution of acid was applied, resulting in a steel and/or Intaglio engraving.

He has developed skills with locking devices to include general locksmithing and a good working knowledge of tumbler, lever, wafer disc, warded and combination locks. He is familiar with wide angle and telephoto lenses, closed circuit cameras, recorders, micro and macro photography, and photocopying with Speed Graphic, Nikon and Pentax cameras. He is capable of operating a variety of machine tools such as metal lathes, milling machines, drill presses, power saws, etc. He can also operate the multilith offset for lithography and the proving press for letter press printing.

6 OCT 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation .

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Thomas Christopher Amato

1. Reference is made to our memorandum of 2 October 1972 regarding the Subject, and to your request of 3 October 1972 for additional information as to how Mr. E. Howard Hunt would have been in possession of the Subject's personal resume in December 1971.

2. In April 1971, Mr. Amato sought the assistance of the Office of Personnel in preparing a personal resume for use following his retirement from the Central Intelligence Agency. On 18 June 1971, Mr. Amato was given 25 copies of this resume for his personal use. The original was maintained in Agency files in the event of outside employment inquiries.

3. Mr. E. Howard Hunt, who had also processed retirement papers through the Office of Personnel, inquired of that office several times regarding retired Agency personnel who might be qualified in the security field. Considered routine at the time, these inquiries were not made a matter of record.

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SCHEDULE OF E.O. 11652, EXEMPTION CATEGORY:	
§ 551, (b) (7) or (c) (unless one or more)	
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(unless impossible, insert date or event)	

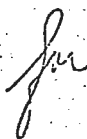
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4. The individual who furnished Mr. Amato's resume has since retired from the Agency. He was interviewed on 4 October 1972 by a representative of the Office of Security, and claimed not to recall the specific time frame during which he provided Mr. Amato's resume to Mr. Hunt. He placed the occurrence sometime between late 1971 and the first several months of 1972. He was also unable to recall the names of other Agency retirees regarding whom he furnished data to Mr. Hunt.

5. Forwarded with this memorandum for your information is a copy of the personal resume prepared for Mr. Amato by our Office of Personnel.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

ERNAL P. GEISS


Howard J. Osborn
Director of Security

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Date of Birth : July 1911
Marital Status: Married, no children
Health : Good

Position in Security Field, Part-time

1952 - 1971 Central Intelligence Agency - Served as a technician in the security field and as a Photoengraver. As a security technician developed skills with locking devices including general locksmithing and a good working knowledge of tumbler, lever, wafer disc, warded and combination locks. Familiar with wide-angle and telephoto lenses, closed circuit cameras, recorders, micro and macro photography, and photocopying with Speed Graphic, Nikon and Pentax cameras. Have also operated a variety of machine tools such as metal lathes, milling machines, drill presses and power saws. As a Photoengraver reproduced certain designs and pointed matter on various metals such as zinc, copper, brass and magnesium. This entailed Process Photography in which metals were coated with sensitive solutions, developed, and then etched in various acid baths to a depth suitable for letterpress printing. Also made printed circuits, did chemical milling, manufactured rubber stamps, and copied engravings and set type by means of Thermo plastic, sheet rubber and hydraulic hot press.

1929 - 1952 Worked as Photoengraver for various engraving companies in Rhode Island and Connecticut and for the Washington Daily News, the Evening Star and The Advertiser's Engraving Service of Washington as a Photoengraving Etcher.

EDUCATION

High School Graduate.

1928 - 1930 Providence College of Music - Rhode Island
Violin Teacher (Diploma)

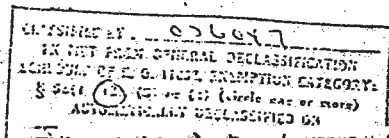
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QUESTION:

f. Would we know anything about the name Edward L. Warren or Edward J. Warren, which apparently was used by both Hunt and McCord at times?

ANSWER:

On 23 July 1971 Mr. Hunt was provided with a set of alias documents in the name of Edward J. Warren and certain support materials. These were in no way connected with Agency operations, but were supplied by the Agency on the understanding that they were required by Mr. Hunt in connection with his official duties. The Agency is not aware of the purpose for which these items were intended or used.



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QUESTION:

g. What do we know about a Mr. Cleo, local telephone number 965-9598? Apparently the Bureau has established that this is an Agency number.

ANSWER:

"Mr. Cleo" probably refers to an Agency electronics engineer, involved in research and development activities for the Agency, who used the telephone number 965-9598 during the summer of 1971. This number is no longer in use. "Mr. Cleo" provided Mr. Hunt with a Uher commercial stereo tape recorder on 20 August 1971. He was also given a padded portable typewriter case as a minimal concealment cover for the recorder. "Mr. Cleo's" understanding of Mr. Hunt's requirement was that Mr. Hunt planned to use the recorder openly and only wanted the typewriter case to facilitate inconspicuous transport of the recorder. These items were provided to him on the understanding that they were required in connection with his official duties. The Agency is not aware of the purpose for which these items were intended or used.

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QUESTION:

i. At the Mullen Company, Hunt had a private wire installed and apparently was called there by one "Tom", reported to be a younger man. Do we know anything about this?

ANSWER:

The Agency has received no previous inquiry in this regard, and we have no knowledge of the private line or anyone named "Tom" attempting to call Mr. Hunt.

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SCHEDULE 2 OF E.O. 11652 EXEMPTION CATEGORY:	
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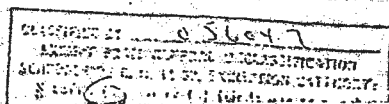
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QUESTION:

j. Would like to know exactly how the inquiries from Hunt for names of experienced Agency retirees were handled -- who took the calls and what names were furnished.

ANSWER:

Mr. Hunt had processed his own retirement papers through the Agency's Office of Personnel and dealt with the same person in that office when submitting his later requests. That individual, Mr. Francis A. O'Malley, retired from the Agency on 19 June 1972. Mr. O'Malley did not record Mr. Hunt's inquiries. The Federal Bureau of Investigation inquired of us on 28 September 1972 as to whether Mr. Hunt had ever been given the name of Thomas Christopher Amato, a former Agency employee. Mr. O'Malley was interviewed in that regard on 3 and 4 October 1972. He remembered sending Mr. Amato's resume to Mr. Hunt in response to a request from him, but he was unable to state exactly when he had done so. Furthermore, although he remembered several other similar requests, he could not recall the names of the persons involved. Memoranda concerning this matter were forwarded to the Federal Bureau of Investigation on 2 and 6 October 1972, copies of which are attached.



QUESTION:

k. Silbert is aware that Ralph True was going to go to work for McCord. They would like to know of any other individuals who possibly had been talked to by Mr. McCord looking toward employment.

ANSWER:

(1) James L. Baker - Mr. Baker was a Staff Employee of this Agency from July 1952 until March 1965, and a Contract Employee from April 1968 until the expiration of his contract on 24 June 1972. He was referred by the Agency to McCord Associates, for possible employment there. On 25 June 1972 Mr. Baker accepted a position with the Bureau of Narcotics and Dangerous Drugs.

(2) Walter E. Brayden - Mr. Brayden was a Staff Employee of this Agency from February 1948 until his retirement on 31 October 1969. Mr. Brayden met Mr. McCord in 1969, when assigned for a short period to the Division of which Mr. McCord was then the Chief. In about early 1972 he approached Mr. McCord for a job. We understand that he was subsequently employed by Mr. McCord.

(3) James C. Fitchett - Mr. Fitchett was a Staff Employee of the Agency from December 1951 until his retirement on 30 June 1972. Mr. Fitchett learned shortly after submitting his retirement papers that Mr.

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§ 55(a) <u>(1)</u> (1) or (2) (circle one or more)
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<u>Indefinite</u> Determination
<small>(unless impossible, insert date or event)</small>

McCord was associated with the Committee for the Re-election of the President. He offered his services to Mr. McCord to be of assistance to the work of the Committee after retirement. He lunched with Mr. McCord on about 18 May 1972; Mr. McCord inquired as to his availability by 15 June 1972 to work as a Security Officer. Mr. Fitchett told Mr. McCord that he would not be available until after his Agency retirement on 30 June 1972. On 13 or 14 June 1972 Mr. Fitchett telephoned Mr. McCord's office, leaving a message that he could commence work on or about 10 July 1972. To our knowledge, Mr. Fitchett has not been employed by Mr. McCord.

(4) Ross Ward Lambert - Mr. Lambert was a Contract Employee of the Agency from January 1965 until his retirement on 9 August 1971. He was referred by the Agency's Office of Personnel to McCord Associates for possible employment there, but reportedly accepted employment in the Chicago, Illinois, area. The Agency responded to a Federal Bureau of Investigation request for information regarding Mr. Lambert on 5 July 1972, a copy of which is attached.

(5) Harry T. Mahoney - Mr. Mahoney was a Staff Employee of the Agency from March 1951 until his retirement on 30 June 1972. While with the Agency, he was well acquainted with Mr. McCord. On or about

- 3 -

10 May 1972 Mr. McCord interviewed Mr. Mahoney for a possible job. To our knowledge, Mr. Mahoney has not been employed by Mr. McCord.

(6) Mr. Earl Harter - Mr. Harter entered on duty with the Agency in November 1950 and was scheduled to retire during October 1972. Mr. Harter is acquainted with both Mr. McCord and Mr. Hunt. Earlier during 1972 he was considering the possibility of working for the McCord organization in Miami, Florida, following his retirement. He is still employed by the Agency.

(7) Dr. Edward M. Gunn - Dr. Gunn was a Staff Employee of the Agency from July 1955 until his retirement on 31 May 1971. While at the Agency, he was acquainted with Mr. McCord. At the end of May 1971 we understand Mr. McCord contacted Dr. Gunn to see if he would be interested in becoming part of the Center for Protection and Safety Studies, Incorporated, which was to be a nonprofit organization.

(8) John B. McGinn - Mr. McGinn is currently a Staff Employee of this Agency. In October or November 1971 Mr. McCord contacted Mr. McGinn and talked with him in general terms about employment with McCord Associates. There was no follow-up on that one contact.

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- 4 -

(9) Mrs. Therese Shea - Mrs. Shea was a Staff Employee of the Agency from June 1948 until her resignation in April 1956. She was referred to McCord Associates by the Agency's Office of Personnel, and we understand that she was hired.

(10) Mr. Jack A. Harris - Mr. Harris has been a Staff Employee of this Agency since January 1951. He was referred to McCord Associates for possible post-retirement employment. Mr. Harris is currently overseas on Agency business.

(11) Konrad C. Dillow - Mr. Dillow was a Staff Employee of the Agency from November 1951 until his retirement on 30 September 1971. He was referred to McCord Associates for possible employment. We have no knowledge that he either talked to or was employed by Mr. McCord.

(12) George T. Stanton - Mr. Stanton was a Staff Employee of the Agency from August 1947 until his retirement on 8 January 1972. He was referred to McCord Associates for possible employment. He was subsequently used as a consultant by Mr. McCord.

It is possible that other Agency personnel discussed possible employment with Mr. McCord, but none further are known.

5 JUL 1972

MEMORANDUM FOR: The Acting Director
Federal Bureau of Investigation

ATTENTION : Mr. Arnold L. Parham

SUBJECT : Rosa Ward Lambert

1. The Subject, who was born on 27 January 1921 at Chicago, Illinois, served as an officer in the United States Army during the 1951-1953 period. He worked as a Contract Employee of this Agency from January 1965 until his retirement on 9 August 1971. Most of his service was in the Far East area.

2. This is to advise that, at the time of his leaving the Agency, our Office of Personnel referred Subject for employment to McCord Associates, Rockville, Maryland. It is understood that Subject submitted a formal job application and background resume to McCord Associates, but decided to accept employment elsewhere.

3. This information is provided for your use only, and should not be disseminated outside of your Bureau. Please transmit any correspondence in this matter to the attention of the Director of Security.

FOR THE DIRECTOR OF CENTRAL INTELLIGENCE:

ERMA P. GEISS

for Howard J. Osborn
Director of Security

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EXCLUDED FROM AUTOMATIC DOWNGRADING AND DECLASSIFICATION
1983 E.O. 11652

Mr. PETERSEN. And it is a memorandum to the Attorney General, subject, "Watergate Incident," from Richard Helms.

Mr. DOAR. I see.

Mr. PETERSEN. The second document in question is a memorandum to me dated December 21, 1972, subject, "Watergate Incident," which refers to a conversation with Mr. Silbert on November 27, 1972, at which time Mr. Silbert asked a number of questions additional to those answered in the prior correspondence.

Mr. EDWARDS. Mr. Chairman, who is that memorandum from?

Mr. PETERSEN. That memorandum is from John S. Warner, Deputy General Counsel of the Central Intelligence Agency.

Mr. DOAR. The date of that memorandum?

Mr. PETERSEN. December 21, 1972.

Mr. DOAR. Mr. Chairman, if we could mark that as "Petersen Exhibit 2."

The CHAIRMAN. It will be so identified.

[The document referred to was marked "Petersen Exhibit No. 2" and follows.]

21 December 1972

SUBJECT: Watergate Incident

2. These are forwarded in conformance with our understanding, confirmed by Mr. Silbert on 27 November, that CIA will not be involved in the presentation of the Government's case in chief, and that these matters are solely for the background information of Mr. Silbert in preparing appropriate contingency responses to matters or contentions which might possibly be raised by the defendants.

Attachments

CLASSIFIED BY Signer
 EXEMPT FROM AUTOMATIC DOWNGRADING
 SCHEDULE 1 OF E.O. 11652, APRIL 27, 1964
 § 552a(c)(2) of the President John F. Kennedy
 ASSUMING ALL INFORMATION IS
 Impossible to Determine
 (unless impossible, insert date or event)

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MEMORANDUM FOR THE RECORD

SUBJECT: Summary of Mr. Cleo Gephart's Contacts with
Mr. E. Howard Hunt

1. As of this date, due to the long lapse of time, Mr. Gephart is unable to provide exact times, dates, or places.
2. In accordance with instructions, he made no written records at the time.
3. Mr. Gephart was under the impression that "Edward" (as Mr. Hunt was known to him) was a staff case officer assigned to the Executive Branch, or otherwise to the Domestic Contact Service of CIA.
4. Mr. Gephart was told through official channels that "Edward" was to be provided all possible assistance.
5. In a total of three meetings (as Mr. Gephart recalls), "Edward" was provided with a standard model Uher stereo recorder and a minimal concealment for transport consisting of a used portable typewriter case with appropriate padding. The Uher was obtained by TSD/LAB. The LAB also provided the case. "Edward" was also provided with two standard Sony (as he recalls) microphones.
6. "Edward" also requested a device to permit him to record an incoming phone call; however, he had a commercial suction-type induction

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<u>Impossible to Determine</u>
(date)

SECRET

- 2 -

coil suitable for the purpose. As Mr. Gephart recalls, CIA gave "Edward" a longer cord for it. Mr. Gephart notes that it was not what we in CIA would regard as a telephone tap device.

7. The recording equipment provided was suitable only for overt recordings. The concealment device was for transport only. The recorder could not be used with the device closed. The microphones were intended to be placed in front of "Edward" and whomever he was talking to.

8. Mr. Gephart provided "Edward" with the office's regular outside telephone number to facilitate contact, since he would not provide contact instructions. He called twice, at most.

9. Mr. Gephart presumed "Edward" to be involved in interviewing defectors. The equipment provided was consistent with this.

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SUBJECT: Summary of Mr. Karl Wagner's Knowledge of CIA Assistance
to Mr. E. Howard Hunt

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SCHEDULE OF E.O. 11652 UNLESS INDICATED OTHERWISE:
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() (Date and/or more) USED ON
Impossible to Determine
(Date and/or more) (Date and/or more)

MEMORANDUM FOR THE RECORD

SUBJECT: Summary of Mr. John F. Caswell's Contacts with
Mr. E. Howard Hunt

1. In October 1971 Mr. Hunt telephoned Mr. John Hart, then Chief, European Division, requesting assistance in obtaining some unclassified research material. Mr. Hunt, who prior to his retirement had been Chief, EUR/CA, was then working as a part-time contract officer with the White House staff. Mr. Hart referred Mr. Hunt to Mr. Caswell in his capacity as Executive Officer, European Division. Mr. Hunt then telephoned Mr. Caswell directly and requested assistance in obtaining unclassified material from CIA Library files relative to a famous 1954 case in France involving the leakage of French Government documents relating to the then Indo-China War. There subsequently was an exchange of several telephone calls between Mr. Hunt and Mr. Caswell in order to clarify specific details of Mr. Hunt's interest in view of the substantial bulk of material on the subject of the French leakage.

2. The information (unclassified) relative to the 1954 French case was forwarded to Mr. Hunt at his temporary office in the Executive Office Building via regular courier. All of Mr. Caswell's discussions with Mr. Hunt were by telephone.

3. The only time since his retirement from the Agency that Mr. Caswell talked in person with Mr. Hunt was a very brief conversation on the occasion of the special dedication ceremony for the plaque honoring Frank Wisner.

4. In late May or early June 1972, at the request of the Director of Security, Mr. Caswell had a very brief interview with Mr. Arnold Parham of the FBI, during which the foregoing points were covered.

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MEMORANDUM FOR THE RECORD

SUBJECT: Summary of Contacts by Mr. Stephen Carter Greenwood
with Mr. E. Howard Hunt

1. On 4 December 1972 Mr. Stephen Carter Greenwood was interviewed for the purpose of obtaining full details on his contacts with "Edward" and an associate during the summer months of 1971. Mr. Greenwood has now identified "Edward" as being E. Howard Hunt.

2. Mr. Greenwood advised that in the summer of 1971 he and his section chief were called into the office of the Deputy Division Chief, who briefed them to the effect that a disguise, documentation, and other support were to be provided to an individual identified as "Edward." Greenwood met with "Edward" the following day and made all the necessary arrangements to immediately provide him with a disguise and alias documentation. "Edward" was observed signing his name to those items which required a signature, and he tried a mouth device that was utilized in connection with the operation.

3. Approximately two weeks later "Edward" called to indicate that he needed some help with the disguise glasses. Greenwood is not sure of the timing, but he recalls that Mr. Cleo Gephart accompanied him to the meeting because Gephart had been asked to provide "Edward" with a tape recorder. Gephart showed "Edward" how the tape recorder worked, and then departed from the house without waiting for Greenwood. The latter individual made some adjustment to the glasses, and it was probably at this meeting that "Edward" inquired about a backstopped telephone number and address in New York. Greenwood indicated that he would have to check with his superiors. Mr. Greenwood is not absolutely certain, but it is his best recollection that "Edward" also requested a disguise and alias documentation for an associate.

4. At the next meeting "Edward" was accompanied by an unknown associate, who expressed a requirement for a disguise, alias documentation, and a camera. Greenwood immediately made all the necessary arrangements for this support and the associate was appropriately briefed

1937

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EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF E.O. 1.35, EXEMPTED BY E.O. 1.35
§ 5.5(a) (1) (i) (single copy or one)
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(date - type, date, format date or event)

on the use of the camera. "Edward" and his unknown friend talked about having to stop by the Pentagon before going to the airport, and it was indicated that further assistance would be required immediately upon their return from the trip. "Edward" did not indicate where he was going, but he left the impression that it had something to do with the investigation of drugs.

5. In what was assumed to be a long distance telephone call, Mr. Greenwood was contacted at his home in less than three weeks. At this time "Edward" asked that he be met at Dulles Airport at about 6:00 a.m. the following day. Mr. Greenwood met "Edward" and his associate at Dulles Airport early the following morning, when he was given some film and asked to have it developed later in the afternoon. Greenwood is quite certain that the pictures were developed and delivered to "Edward" in accordance with his priority request. It was also at about this time that Greenwood was informed by his supervisor that additional operational support was to be curtailed because "Edward's" requests were beyond what was authorized. In this last meeting with "Edward," Greenwood delivered the photographs and indicated that additional operational support would not be forthcoming without specific authorization. However, "Edward" was obviously in a hurry, apparently having some type of appointment, and the meeting lasted less than ten minutes.

6. Mr. Greenwood stated that he cannot be sure, but he estimates that he met with "Edward" on about five different occasions. In response to inquiry, Mr. Greenwood advised that he is now reasonably certain that "Edward" is E. Howard Hunt, based upon 1972 publicity relating to the Watergate incident. With respect to the second individual, "Edward's" associate, Mr. Greenwood stated that he was a "similar type" to Gordon Liddy. Greenwood does not recall the use of the name "Tom," and it is his best recollection that the second individual used the name "George."

SECRET

RESPONSE:

SECRET

CLASSIFIED BY D-1647
EXEMPT FROM AUTOMATIC DOWNGRADING
AND DECLASSIFICATION BECAUSE IT CONTAINS:
(1) SECRET (2) UNCLASSIFIED (3) CONFIDENTIAL (4) OTHER
(5) NO (6) OTHER (7) OTHER
(8) OTHER (9) OTHER (10) OTHER
Exempt from automatic declassification
(Please specify date or event)

0.10011

QUESTION:

Mr. Hunt asked for a backstopped telephone number in New York. From whom was this requested?

RESPONSE:

Mr. Stephen C. Greenwood, a current Agency Staff Employee, advised that Mr. Hunt asked him for a backstopped telephone number in New York. Mr. Greenwood informed Hunt that he (Greenwood) would have to check with his superiors before making such a commitment. Mr. Hunt requested this Agency support on or about 20 August 1971, but he was never provided with a New York telephone number.

SECRET

CLASSIFIED BY	056047
EXEMPT FROM AUTOMATIC DOWNGRADING	
SCHEDULE 1 OF E.O. 11652, REVISED 10/1/69	
§ 1.1 (A) (1) (i) (circle one or more)	
DECLASSIFICATION AUTHORITY ON	
<i>Impossible to Determine</i>	
(if less impossible, insert date or event)	

QUESTION:

Did we have any other dealings with Liddy while he was in Treasury or the White House?

RESPONSE:

We did not have any prior dealings with George Gordon Liddy in an operational sense. Our records do reflect, however, that in December 1969 security action was initiated to grant Liddy a number of Agency special clearances in connection with his employment by the Department of the Treasury. At that time Liddy was listed as a member of the Presidential Task Force reporting on narcotics, marijuana, and dangerous drugs.

In August 1971 Mr. George Gordon Liddy was briefed on several additional sensitive programs in connection with his assignment to the White House staff. Memos prepared in August and September 1971 indicate that Liddy was working with Mr. David R. Young to investigate leaks of classified information to the news media. Liddy was debriefed of these special clearances on 22 February 1972. In effect, Mr. Liddy held Agency clearances because of his White House duties, but he was not utilized by CIA.

SECRET

CLASSIFIED BY 056047
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE OF E.O. 1.1659, INFORMATION CATEGORY:
§ 1.6(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z)
Automatic and Subjective OR
Impossible to Determine
(unless impossible, insert date or event)

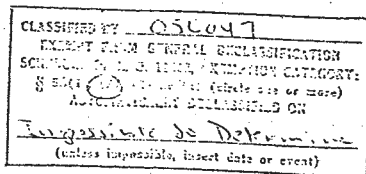
Was Robert Thurston Davis an applicant during 1972?

RESPONSE:

Our records do not reflect that Robert Thurston Davis was ever an applicant for Agency employment.

2000

CLASSIFIED BY 056047
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE BY 056047 EXEMPTION CATEGORY:
8 1 (1, 2, 3, 4, 5, 6, 7, 8, or 9)
AUTHORITY 1.5 EXEMPTION CODE 25X
Impossible to determine
(unless impossible, insert date or event)



QUESTION:

Mr. Silbert inquired whether Hunt was involved in dealings between Robert R. Mullen & Company and the Agency. Can this be confirmed?

RESPONSE:

As of 1 May 1970, Mr. Hunt, who had just retired from the Central Intelligence Agency, became a legitimate employee of Robert R. Mullen and Company. As a principal officer of the Robert R. Mullen and Company, Mr. Hunt was aware of two present Agency cover placements with the firm. The Federal Bureau of Investigation was provided with data concerning this matter in a memorandum dated 21 June 1972.

Our records reflect that the Agency's utilization of Robert R. Mullen and Company dates back to June 1963, and this Agency was somewhat concerned that the employment of Hunt by the Mullen firm might have an adverse effect on certain sensitive cover arrangements. The Agency did not take the initiative in briefing Mr. Hunt on our arrangements with Robert R. Mullen and Company, but we accepted the fact that he had become cognizant of certain cover matters based on

SECRET

CLASSIFIED BY	050047
EXEMPT FROM AUTOMATIC DECLASSIFICATION	
SCHEDULE 6, E.O. 11652, DEPARTMENT OF COMMERCE	
§ 551 (C) (1) (i) (Make one or more)	
AUTOMATICALLY DECLASSIFIED ON	
Indefinite or Determinate	
(unless impossible, insert date or event)	

his senior position and his long-time personal association with Mr.

Mullen. However, Mr. Hunt was never utilized as an official contact

with the Mullen Company while he served in CIA.

Mr. Silbert asked whether Hunt had any official dealings with Mullen, mentioning the fact that Mullen had assisted in establishing the Cuban Freedom Committee.

RESPONSE:

Our records fail to reflect any information indicating that Hunt had anything to do with the assistance of Mullen in establishing the Cuban Freedom Committee. However, it is known that Mr. Mullen was acquainted with Hunt since the early days of World War II, and there had been a close personal association.

320

CLASSIFIED BY 056097
EXEMPT FROM GENERAL DECLASSIFICATION
SCHEDULE DATE: 1994 EXEMPTION CATEGORY:
8 (a) 1 (b) 1 (c) 1 (d) 1 (e) 1 (f) 1 (g) 1 (h) 1 (i) 1 (j) 1 (k) 1 (l) 1 (m) 1 (n) 1 (o) 1 (p) 1 (q) 1 (r) 1 (s) 1 (t) 1 (u) 1 (v) 1 (w) 1 (x) 1 (y) 1 (z) 1 (aa) 1 (ab) 1 (ac) 1 (ad) 1 (ae) 1 (af) 1 (ag) 1 (ah) 1 (ai) 1 (aj) 1 (ak) 1 (al) 1 (am) 1 (an) 1 (ao) 1 (ap) 1 (aq) 1 (ar) 1 (as) 1 (at) 1 (au) 1 (av) 1 (aw) 1 (ax) 1 (ay) 1 (az) 1 (ba) 1 (bb) 1 (bc) 1 (bd) 1 (be) 1 (bf) 1 (bg) 1 (bh) 1 (bi) 1 (bj) 1 (bk) 1 (bl) 1 (bm) 1 (bn) 1 (bo) 1 (bp) 1 (bq) 1 (br) 1 (bs) 1 (bt) 1 (bu) 1 (bv) 1 (bw) 1 (bx) 1 (by) 1 (bz) 1 (ca) 1 (cb) 1 (cc) 1 (cd) 1 (ce) 1 (cf) 1 (cg) 1 (ch) 1 (ci) 1 (cj) 1 (ck) 1 (cl) 1 (cm) 1 (cn) 1 (co) 1 (cp) 1 (cq) 1 (cr) 1 (cs) 1 (ct) 1 (cu) 1 (cv) 1 (cw) 1 (cx) 1 (cy) 1 (cz) 1 (da) 1 (db) 1 (dc) 1 (dd) 1 (de) 1 (df) 1 (dg) 1 (dh) 1 (di) 1 (dj) 1 (dk) 1 (dl) 1 (dm) 1 (dn) 1 (do) 1 (dp) 1 (dq) 1 (dr) 1 (ds) 1 (dt) 1 (du) 1 (dv) 1 (dw) 1 (dx) 1 (dy) 1 (dz) 1 (ea) 1 (eb) 1 (ec) 1 (ed) 1 (ee) 1 (ef) 1 (eg) 1 (eh) 1 (ei) 1 (ej) 1 (ek) 1 (el) 1 (em) 1 (en) 1 (eo) 1 (ep) 1 (eq) 1 (er) 1 (es) 1 (et) 1 (eu) 1 (ev) 1 (ew) 1 (ex) 1 (ey) 1 (ez) 1 (fa) 1 (fb) 1 (fc) 1 (fd) 1 (fe) 1 (ff) 1 (fg) 1 (fh) 1 (fi) 1 (fj) 1 (fk) 1 (fl) 1 (fm) 1 (fn) 1 (fo) 1 (fp) 1 (fq) 1 (fr) 1 (fs) 1 (ft) 1 (fu) 1 (fv) 1 (fw) 1 (fx) 1 (fy) 1 (fz) 1 (ga) 1 (gb) 1 (gc) 1 (gd) 1 (ge) 1 (gf) 1 (gg) 1 (gh) 1 (gi) 1 (gj) 1 (gk) 1 (gl) 1 (gm) 1 (gn) 1 (go) 1 (gp) 1 (gq) 1 (gr) 1 (gs) 1 (gt) 1 (gu) 1 (gv) 1 (gw) 1 (gx) 1 (gy) 1 (gz) 1 (ha) 1 (hb) 1 (hc) 1 (hd) 1 (he) 1 (hf) 1 (hg) 1 (hh) 1 (hi) 1 (hj) 1 (hk) 1 (hl) 1 (hm) 1 (hn) 1 (ho) 1 (hp) 1 (hq) 1 (hr) 1 (hs) 1 (ht) 1 (hu) 1 (hv) 1 (hw) 1 (hx) 1 (hy) 1 (hz) 1 (ia) 1 (ib) 1 (ic) 1 (id) 1 (ie) 1 (if) 1 (ig) 1 (ih) 1 (ii) 1 (ij) 1 (ik) 1 (il) 1 (im) 1 (in) 1 (io) 1 (ip) 1 (iq) 1 (ir) 1 (is) 1 (it) 1 (iu) 1 (iv) 1 (iw) 1 (ix) 1 (iy) 1 (iz) 1 (ja) 1 (jb) 1 (jc) 1 (jd) 1 (je) 1 (jf) 1 (jg) 1 (jh) 1 (ji) 1 (jj) 1 (jk) 1 (jl) 1 (jm) 1 (jn) 1 (jo) 1 (jp) 1 (jq) 1 (jr) 1 (js) 1 (jt) 1 (ju) 1 (jv) 1 (jw) 1 (jx) 1 (jy) 1 (jz) 1 (ka) 1 (kb) 1 (kc) 1 (kd) 1 (ke) 1 (kf) 1 (kg) 1 (kh) 1 (ki) 1 (kj) 1 (kk) 1 (kl) 1 (km) 1 (kn) 1 (ko) 1 (kp) 1 (kq) 1 (kr) 1 (ks) 1 (kt) 1 (ku) 1 (kv) 1 (kw) 1 (kx) 1 (ky) 1 (kz) 1 (la) 1 (lb) 1 (lc) 1 (ld) 1 (le) 1 (lf) 1 (lg) 1 (lh) 1 (li) 1 (lj) 1 (lk) 1 (ll) 1 (lm) 1 (ln) 1 (lo) 1 (lp) 1 (lq) 1 (lr) 1 (ls) 1 (lt) 1 (lu) 1 (lv) 1 (lw) 1 (lx) 1 (ly) 1 (lz) 1 (ma) 1 (mb) 1 (mc) 1 (md) 1 (me) 1 (mf) 1 (mg) 1 (mh) 1 (mi) 1 (mj) 1 (mk) 1 (ml) 1 (mm) 1 (mn) 1 (mo) 1 (mp) 1 (mq) 1 (mr) 1 (ms) 1 (mt) 1 (mu) 1 (mv) 1 (mw) 1 (mx) 1 (my) 1 (mz) 1 (na) 1 (nb) 1 (nc) 1 (nd) 1 (ne) 1 (nf) 1 (ng) 1 (nh) 1 (ni) 1 (nj) 1 (nk) 1 (nl) 1 (nm) 1 (nn) 1 (no) 1 (np) 1 (nq) 1 (nr) 1 (ns) 1 (nt) 1 (nu) 1 (nv) 1 (nw) 1 (nx) 1 (ny) 1 (nz) 1 (oa) 1 (ob) 1 (oc) 1 (od) 1 (oe) 1 (of) 1 (og) 1 (oh) 1 (oi) 1 (oj) 1 (ok) 1 (ol) 1 (om)

RESPONSE:

The Agency has had no relationship with Manuel Ogarrio
Daguerre.

CLASSIFIED BY 05647
 EXEMPT FROM GENERAL DECLASSIFICATION
 SCHEDULE 1, NATIONAL SECURITY AGENCY
 8/8/81 (date of declassification or review)
 AUTHORITY: 50 USC 3024 (a)(3) UN
Impossibile to determine
 (unless impossible, insert date or event)

SECRET

QUESTION (directed to Mr. John Warner on 29 November 1972):

Prior identification in the name of Hamilton. What do records of CIA show as to whether or not any of those (documents) were ever returned after purpose had expired. Did he keep them?

RESPONSE:

Mr. Hunt was issued the alias Edward J. Hamilton on 30 September 1960. This name was erroneously recorded at that time on a District of Columbia Driver's Permit as Edward V. Hamilton. Mr. Hunt was to use the District of Columbia Driver's Permit for only one week. With respect to the overall question of pocket litter during that period, Agency records have been destroyed, and there is no specific information in our files relating to the issue. Obviously, a 1960 Driver's Permit would become outdated in time. The Federal Bureau of Investigation was advised of these particulars by memoranda dated 27 June and 5 July 1972.

SECRET

CLASSIFIED BY	61647
EXEMPT FROM GENERAL DECLASSIFICATION	
SCHEDULE OF E.O. 11652, EXEMPTION CATEGORY:	
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QUESTION (to Mr. John Warner on 29 November 1972):

Details on Morton Barrows Jackson, who worked about twenty years ago with the Agency.

RESPONSE:

Mr. Morton Barrows Jackson was utilized by the Agency overseas in a covert capacity covering the period from February 1951 to approximately June 1954. He was never a Staff Employee of the Central Intelligence Agency. Although Mr. Jackson is known to have listed Mr. Everette Howard Hunt as a character reference in August 1950, we have no information on the nature or extent of their association. Attached is a memorandum prepared giving full details on the background of Morton Barrows Jackson.

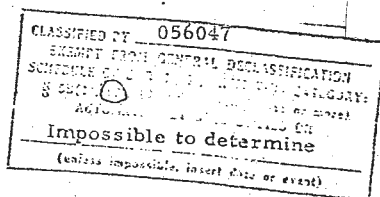
On 19 August 1972 Mr. Jackson called the Agency asking how to respond to possible Grand Jury questions with respect to his connections with the Agency. He was advised to say that there had been an association during the early 1950's but to try to refer further specific questions to the Agency. On 31 August 1972 he phoned to say he had done so, that no problems had arisen, and that he expressed appreciation.

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MORTON BARROWS JACKSON

1. Subject's name came to the attention of this Agency through the Federal Bureau of Investigation, as a possible contact of Everette Howard Hunt, Jr., on the West Coast during early 1972. (Subject, in August 1950, listed Mr. Hunt as a character reference for covert Agency employment.)
2. Subject was born on 17 July 1921 at Devils Lake, North Dakota. He attended Harvard University from 1938 to 1940 and the University of Southern California from 1946 to 1948. He was admitted to the California Bar in 1949. Subject's legal experience includes service on the Intergovernmental Committee for European Migration, Geneva, Switzerland, from 1954 to 1957, and as Regional Commissioner of the Immigration and Naturalization Service, Department of Justice, from 1958 to 1959. Subject is a retired lieutenant commander in the U. S. Naval Reserve. He is presently a partner in Jackson, Goodstein, Kumler, Copes, Croskey and Smith, Suite 1651, 1901 Avenue of the Stars, Los Angeles (Century City), California 90067; telephone: (213) 277-0200. The firm engages in general civil and trial practice in all State and Federal Courts.
3. Subject was a covert asset of this Agency in Bangkok, Thailand, from February 1951 until January 1954, when his contract expired. He was associated then with the Intercontinental Engineering Corporation.
4. In February 1954 Subject was considered for an administrative position with an Agency-sponsored Fund in Switzerland. The International Organizations Division cancelled their interest on 2 June 1954. Subject was, during 1954, an occasional source of the Bern, Switzerland, Station, but no formal relationship existed.



Mr. PETERSEN. That memorandum gave rise to an additional question. One of the exhibits referred to certain film that Hunt had delivered to CIA with the request that it be developed. Thereafter, we asked, Silbert asked if there were any copies of that. CIA replied in the affirmative, then delivered those directly to my office without a cover letter or attachment. That gave rise to —

Mr. DOAR. Did they—can you fix the date when that was delivered?

Mr. PETERSEN. I can fix the date, because I had recently had occasion to inquire in CIA when we received those documents. They gave me a copy of a memorandum in their files which reads as follows:

Personally hand carried and delivered to Mr. Henry Petersen, Assistant Attorney General, Criminal Division, Department of Justice, an envelope containing Xerox copies of 10 pictures." Signed, Anthony somebody—I can't read the name, G-o-l-d-i-n is the typed name, January 3, 1973.

Mr. DOAR. That document could be marked "Petersen Exhibit 3."

The CHAIRMAN. It will be so identified.

[The document referred to was marked "Petersen Exhibit No. 3" and follows.]

[Petersen Exhibit No. 3]

Personally hand carried and delivered to Mr. Henry E.
 Petersen, Assistant Attorney General, Criminal Division,
 Department of Justice, an envelope containing xerox copies of
 10 pictures.*

Anthony E. Goldin

Anthony E. Goldin

Date: *Jan. 3, 1973*

*Originals
 1. Pictures taken by Goldin
 2. Pictures taken by CID*

Received in O/C/MC 5/8/73 ← J. P. L.

Mr. PETERSEN. There is a point I would like to make about that, Mr. Doar, if you please.

Mr. DOAR. Please do.

Mr. PETERSEN. On or about April 25, 1973, at which time, with the authorization of the Attorney General and the President. I am informed, we disclosed to the court, the judge trying the *Ellsberg* case, that there had been a break-in at the offices of Dr. Fielding, who was the psychiatrist of Mr. Ellsberg. In the course of the investigation conducted, it became important to reply to the court with respect to when the Department of Justice had learned of that information. I filed an affidavit with the court indicating that we had learned that information from Mr. Dean through Mr. Silbert by memorandum dated April 16, 1973.

I made reference to the photographs and I identified the photographs as being received in October. The reason I did that was because all of our documents had been torn apart in connection with the Watergate case and trying to furnish some documents to the court in the *Ellsberg* case, and frankly, we could not reconstruct them and we could not be certain when the documents, the photograph, were delivered. We took the earliest date that we had received information from CIA, which was the October date.

Mr. DOAR. When you got the photographs in January, when they were delivered to you, what did you do with them?

[Material unrelated to testimony of witness deleted.]

Mr. PETERSEN. Mr. Silbert and I examined them and—

Mr. WALDIE. Is the affidavit of Mr. Petersen filed with the court as to when he first discovered the break-in of the Fielding office part of our evidentiary materials?

Mr. DOAR. Yes, it is.

Mr. WALDIE. Can you give me the citation to that?

Mr. DOAR. It may well be, Congressman Waldie, that that affidavit was filed around the first or second of May, so it would be, in all probability, in the last volume of book VII.¹

Well, now, to get back to the question I asked you, Mr. Petersen, you and Mr. Silbert looked at these pictures and what did you do as a result of your examination of the pictures, if anything?

Mr. PETERSEN. Well, we examined them. We could not ascertain any relevancy to the Watergate investigation. We knew that Hunt had been in California and we were interested in that aspect of it, but not being able to determine any relevancy to the Watergate investigation, we simply didn't do anything with them.

Mr. DOAR. Well, did you file them?

Mr. PETERSEN. Well, they were maintained in—I guess Mr. Silbert had them in his custody at that point and in connection with this trial preparation, and they were returned to me sometime in February, after the trial was over.

Mr. DOAR. I think it would be helpful if you could explain to the committee the way the Department of Justice was organized in January of 1973 with respect to the responsibilities of the Criminal Division and the responsibilities of the Internal Security Division. There were two divisions at that time?

Mr. PETERSEN. That is correct.

¹ See HJC, "Statement of Information," book VII, pt. 4, item 119.5.

Mr. DOAR. There were two Assistant Attorney Generals?

Mr. PETERSEN. As of January 1973, there was an Internal Security Division, which was then headed by Mr. William Olson, and there was a Criminal Division, of which I was the head. The *Ellsberg* case, the *Pentagon Papers* case, related matters, were under the jurisdiction of the Internal Security Division. The Watergate case was under the jurisdiction of the Criminal Division.

Mr. DOAR. How long did that organizational arrangement continue within the Department of Justice?

Mr. DOAR. How long did that organizational arrangement continue within the Department of Justice?

Mr. PETERSEN. In approximately March, I believe around the middle of March 1973, the Internal Security Division was abolished and its functions were transferred to the Criminal Division of the Department of Justice, where what had formerly been a division assumed the status of a section and its broader responsibilities, things not directly related to national security, were assumed by other sections in the Criminal Division.

The Assistant Attorney General, who was in the process of leaving, continued to exercise—the Assistant Attorney General of the Internal Security Division, who was in the process of leaving, continued to exercise responsibility for the *Ellsberg* case, since he was intimately familiar with its development and the prosecution.

Mr. DOAR. Prior to the time that the two divisions were merged, did you have responsibility or any knowledge of the *Ellsberg* case?

Mr. PETERSEN. I had no responsibility for the *Ellsberg* case.

Mr. DOAR. From time to time, in my experience in the Department of Justice, in certain substantial cases, there is consultation back and forth between Attorney Generals, sometimes with the Deputy and sometimes with the Attorney General, about policy matters, judgments, relating to the case. Could you tell the committee whether or not you had been involved in any way in connection with the breaking or the prosecution of the *Ellsberg* case?

Mr. PETERSEN. I was not involved in any way with the bringing of the prosecution in the *Ellsberg* case. I was not a party to any of the decisions nor any of the discussions preceding the decisions. My advice was not requested with respect to any of the procedural matters involved in the case.

I had one conversation with Mr. Mardian which concerned the assignment of a lawyer who had, in his judgment, performed inadequately and he wanted him transferred to the Criminal Division, and I refused to accept him. That is all.

Mr. RAILSBACK. Mr. Chairman?

The CHAIRMAN. Mr. Railsback.

Mr. RAILSBACK. Mr. Chairman, I think Mr. Doar asked Mr. Petersen if he had any knowledge aside from all of these other things, and then you kind of cut him off before he had a chance to answer if he had any knowledge from any other source.

Mr. PETERSEN. May I?

Mr. DOAR. Yes, please.

Mr. PETERSEN. I had no knowledge from any other source except what the ordinary citizen would have from a reading of the newspapers, and I have to confess that I did not read the newspapers very thoroughly with respect to that case. I did on one occasion ask Whit-

ney North Seymour, who was the U.S. attorney in the Southern District of New York, if he had considered the theory of replevin in connection with his action against the New York Times, but that was purely an uninformed professional question, if you like, just soliciting information about a potential theory.

Mr. DOAR. Then you weren't involved in any way in the preparation of the Ellsberg case for trial?

Mr. PETERSEN. No, sir.

Mr. DOAR. Now, I would like to ask you about another subject. Do you know John Dean?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. And you were acquainted with him when he was counsel to the President?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. I would like to ask you specifically about a meeting that you had with him and others on December 22, 1972, in connection with Mr. Bittman's motion on behalf of Mr. Hunt to suppress certain evidence. Do you recall that meeting?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. Could you, in your own words, tell the committee just what happened at that meeting, what conversations you had privately with Mr. Dean at sometime during that meeting?

Mr. PETERSEN. Yes. Mr. Bittman, who represented Mr. Hunt, had filed a motion to suppress evidence based on what he contended was an illegal search of the Hunt office at the White House. In the course of that motion, he alleged that two notebooks which he described, one of which I can recall was described as a Hermes, H-e-r-m-e-s, notebook, were, according to him, not reported in the inventory filed by the agency. And he alleged that this was a concealment of evidence that was or could be—I have forgotten how it could be—exculpatory. Mr. Silbert and his staff had, I believe, interrogated Mr. Dean and perhaps others at the White House in connection with this on one prior occasion, and they scheduled a second meeting with Mr. Dean, Mr. Bruce Kehrli, and Mr. Fred Fielding, who were employed at the White House, to interrogate them with respect to these two notebooks, on the assumption that they would be Mr. Bittman's witnesses on a hearing to suppress evidence. That meeting took place on December 22, by mid-afternoon. December 22 was the last working day before the Christmas holiday. Present was an FBI agent, as I recall, and a court reporter. I can't recall whether or not Mr. Dean and his associates were under oath.

After the interrogation started, because it was a dull, preholiday afternoon, I went in and participated in the interrogation. The whole thrust of that interrogation was, what did you do, what information did you get from Hunt's office or safe, how was it accounted for, and were these notebooks there? That interrogation went on for, I guess, until around 6 or 6:30 p.m.

An interruption occurred and while I was out of the office, Mr. Dean came to me and said that there was a point he wanted to make and that there was some information that he had given to the Director personally that he didn't give to the agents. I said, well, was it Watergate-related?

He said, no, it was not.

I said, well, was it these notebooks?

He said, no, it was not.

I said, well, you are going to be a witness and if you are called, they are going to ask you about that. You are going to have to tell the truth.

And he responded with very colorful language, that he would tell the truth, that he would not lie for Mr. Ehrlichman; he might lie for the President, but he would not lie for Mr. Ehrlichman.

I said, well, John, you are going to have to produce those things. I would take your word for it that they are not Watergate-related matters, but defense counsel will not, and you had better talk to Pat Gray about it.

On that note, the meeting concluded and, Mr. Silbert promising to get back to Mr. Kehrli and Mr. Fielding and Mr. Dean to continue this interrogation at a later time, prior to the hearing on the motion to suppress. I, too, left, and took a Christmas holiday and didn't come back until after the first of the year.

When I did come back, why, Mr. Silbert informed me that—well, not explicitly—that he was a little concerned with the motion to suppress; now what he was concerned about was a plea from Hunt. We discussed what type of a plea we'd accept—two or three counts to the indictment, one of which would be that conspiracy count. We talked about representative counts and burglary counts and eavesdropping counts. We finally fixed on three counts which we would be willing to accept as a plea and thereafter, we did not pursue our interest in the motion to suppress or the incidents thereto.

As you know, Mr. Hunt subsequently did enter a plea. The court refused to accept the plea to three counts and insisted on a plea to every count in the indictment, which is, to say the least, somewhat unusual. And that disposed of the Hunt matter so far as we were concerned.

Mr. DOAR. Well, did you at any time raise with Mr. Gray the fact that Mr. Dean had brought to your attention about the material that he claimed had been delivered to Mr. Gray?

Mr. PETERSEN. There came an occasion—I have said the past February; I really don't know the date—during the course of Mr. Gray's confirmation hearing. The date can best be fixed that it was a time after he had testified that he had given investigative reports to John Dean—when Mr. Gray called me on the telephone to ask me something about the conduct of the grand jury investigation of the Watergate case, and in the course of that, I asked him if he had, just as a collateral matter, really, received any information of John Dean—from John Dean which he, Dean, had obtained from Hunt's safe or office which was not made available to the agents. And he said no, that he did not.

I was a little puzzled by the reply, because I didn't see that Mr. Dean had any reason to lie about that in the circumstances in which he related it to me, and I could only conclude that it was information so sensitive about which I had not—for which I had no reason to know and that it was probably being handled on a need-to-know basis. I did not pursue the matter until on or about April 16th—April 15th—when Dean again brought up the subject at the time he was talking to the prosecutors in connection with his bid for immunity.

I went to Pat Gray's office and asked him about it again. And he absolutely denied that he had received anything. And again I was

puzzled and I went back to Mr. Silbert and told him to go back to Mr. Dean and question him again on it, check Dean's recollection.

Thereafter, Mr. Silbert came back to me and said that Dean was positive, and again, I could see no reason for Mr. Dean to lie about that matter.

I went back to Mr. Gray for a third time, the date of which I am not sure of, but sometime in that period between the 15th and the 25th, or thereabouts. And this time, frankly to my surprise, Mr. Gray admitted, yes, that he had gotten that material, that he had brought it back, that Mr. Ehrlichman or Mr. Dean, or one of them, had suggested that he destroy it; that he had taken it home over the weekend, since he was in a travel status, brought it back to his office. And he pointed down to the wastebasket under his desk and said, "I tore it up and put it in the wastebasket," which was a burn basket, "and it was destroyed."

I asked him if he had read it. He said no, he did not read it and he did not know what it related to.

Mr. DOAR. Did you ask him when that occurred?

Mr. PETERSEN. He indicated that that occurred right after—he had received it immediately after he had returned from his trip, which was in, I took it to be, a week or so after its receipt.

Mr. DOAR. Did he tell you the date of the receipt of the material, the month?

Mr. PETERSEN. If he did, I don't recall, Mr. Doar.

Mr. DOAR. Did he tell you whether it was shortly after the Water-gate break-in?

Mr. PETERSEN. No, but I assumed that it was.

Mr. DOAR. Now I want to turn to another subject.

Ms. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I wonder, Mr. Doar, if we could try to establish, if at least not dates of the witness' best recollection of events he testified to, at least the times, the number of days that have elapsed between these events he has just testified to, because the time frame is very confused.

The CHAIRMAN. Mr. Doar, is not most of this information included in testimony of the statement of information that we have already had presented to us, together with some of the testimony that Mr. Petersen has already presented to other committees and is included?

Mr. DOAR. Some of it is, Mr. Chairman. I can't tell you all of it.

The CHAIRMAN. Will you identify that which is not and that which is so that we don't repeat that which is not, except to make some reference to it? I don't think there is any need to plow the same ground all over again unless it is to clarify.

Mr. DOAR. Since I am not able to tell you, Mr. Chairman, whether or not the question that Ms. Holtzman asked is or is not in the statement of information right now, I think probably the fastest way would be just to clean that up.

The CHAIRMAN. Proceed.

Mr. DOAR. Could you, to the best of your recollection, fix the dates of these conversations with Mr. Gray?

Mr. PETERSEN. Well, the best I can fix the date of the first telephone conversation with Mr. Gray was sometime after he had disclosed in the course of his confirmation hearings and while his confirmation

hearings were still going on, that he had made FBI reports available to John Dean. I can't fix that date any closer.

The second date at which I, on which I questioned Mr. Gray about this or asked him about it, was April 16, 1973.

The third date, the date on which he made the admission, I am unsure of. I had once said April 27. I am reasonably certain that that was incorrect. It was, in any event, between the 16th and that 25th of April. I can't be certain just when.

Mr. DOAR. OK.

Now, turning to another subject, I wonder if you could summarize for the committee just briefly the status of the Watergate investigation as of the middle of March? That is to say between the period from the 10th to the 15th of March, in that period, 1973.

Mr. PETERSEN. Well, in that period of time, the Watergate trial had been concluded. I think it was concluded on the 28th of January. The judge undertook to order a pre-sentencing investigation which seemed to me to take an inordinate amount of time. And the 10th of March, that investigation had apparently still not been completed.

Sentencing had not been imposed and at least I was somewhat impatient to get on with what we were going to do to continue the investigation. At that time—that is, the 10th of March—I had before me, if not in writing at that point, at least orally at that time, a request by Mr. Silbert to authorize immunity for all of the convicted defendants. That immunity authorization was granted by me either on the 14th or the 15th of March. I am unsure because the letters were typed on the 14th and mailed on the 15th, so I can't fix the precise date of the immunity authorizations.

Thereafter, Mr. Silbert began his interrogation of the convicted Watergate defendants with an eye to determining whether additional persons were involved.

Mr. DOAR. Now, was there an active FBI investigation going on at that time?

Mr. PETERSEN. Basically, I think not. While the FBI was ready and willing to carry out any directions that we gave them, we were literally reduced to obtaining information from the convicted defendants in order to develop additional leads to pursue the matter. So that whatever, if anything, was being done by the FBI was peripheral at that point to say the least.

Mr. DOAR. Now, turning to another subject, did there come a time around the middle of April, specifically on April 14th, where you received a call from Mr. Silbert with respect to a request for an immediate appointment with you with respect to the Watergate case?

Mr. PETERSEN. Yes, April 14th was a Saturday and—

Mr. DOAR. You can just—this meeting, if I could ask you to just briefly summarize this and briefly summarize the meeting you had with the Attorney General thereafter, and then following that meeting.

Mr. PETERSEN. Yes. April 14 was a Saturday and I was out of the city, happily engaged in fishing and incommunicado. And Mr. Silbert was trying to get in touch with me all day. I got home about 7 o'clock in the evening. I called Mr. Silbert. He said, we have to meet with you, it is urgent; I don't want to discuss it on the telephone. We have got to see you in your office.

Since I was not overjoyed about going to the office on Saturday night, I insisted he tell me over the telephone. He said, we have broken the Watergate case. We have to see you right away.

We scheduled a meeting at 8:30 in my office in the Justice Department and I went down there. They were late in arriving, as I recall, they being Mr. Titus, the U.S. Attorney; Mr. Silbert, who was the attorney responsible for the prosecution; Mr. Glanzer, his assistant; and Mr. Campbell, the third lawyer on the prosecution team. They informed me that since on or about April 6, they had been in communication with John Dean and of course his lawyer and that John Dean was seeking immunity; that for the purposes of negotiation with respect to immunity; he was advancing certain information which they had accepted subject to certain limitations, those limitations being that in the event immunity—the judgment was not to accord him immunity; that the information he advanced in order to enable us to make a judgment would not be used against him or in the investigation, directly or indirectly.

They had made that concession and his proffer suggested that there was a very successful coverup carried on in connection with the Watergate investigation that might still be underway; that involved in that coverup were Mr. Mitchell, Mr. Mardian, Mr. LaRue, Mr. Magruder, perhaps Mr. Haldeman, Mr. Ehrlichman, Mr. Porter. He indicated the nature of that information with respect to the implication of those people.

Do you want me to touch upon that, Mr. Doar?

MR. DOAR. No, no, because that is—after you received all this information, what decision did you make?

MR. PETERSON. Well, I think the first decision was that obviously, we had to inform the Attorney General of the United States and that there was some discussion about informing the President. And it was, I think, the consensus that the President had to be informed.

That raised a procedural point; that procedural point being that we had to consult with Mr. Dean and Mr. Shaffer, Mr. Dean's lawyer, as to whether or not this additional disclosure would be considered by them as violative of the agreement.

I should say, incidentally, that they had previously gone to Mr. Shaffer to request his permission to discuss the matter with me, the ground being that I was the official who would be required to authorize immunity if immunity was to be accorded.

In the course of that discussion, it was suggested that Mr. Haldeman and Mr. Ehrlichman had erected a shield in front of the President. Mr. Titus echoed that and stated that he had been so informed by Miss Rose Mary Woods, who was a friend of his. And the consensus was reached that we had no other course but to also advise the President that his two principal aides were in jeopardy with respect to the development of the investigation, so that he could take whatever action would be appropriate in the circumstances.

Those conclusions being reached, Mr. Shaffer was consulted and after first suggesting that that might be violative of the agreement, agreed after exposition of our position that it would be appropriate to do as we suggested.

I then tried to reach Mr. Kleindienst by telephone, first at his home—

MR. DOAR. Without going into the details of how you reached him, because that is already a part of the record, may I ask you whether

or not you did later that evening or early the next morning meet with Mr. Kleindienst?

Mr. PETERSEN. We finally got in touch with Mr. Kleindienst and made arrangements to meet with him at his home at approximately 1 or 1:30 on Sunday morning, April 15, 1973, at which point, we disclosed to him what had previously been disclosed to me, with the suggestion that he, that it was necessary for him to meet with the President immediately to advise him of what had developed.

Mr. DOAR. And was that the way—did the Attorney General agree to that?

Mr. PETERSEN. The Attorney General agreed to that, stated, I believe, that he was going to a prayer breakfast at the White House the next morning and he would set up a meeting with the President and convey to the President what we had conveyed to him.

Mr. DOAR. Did you hear from Attorney General Kleindienst the next day?

Mr. PETERSEN. Yes; at approximately 2 o'clock on Sunday afternoon, I was at my home and I received a call from the Attorney General, who asked if I would come to the office. I agreed to do so.

When I got to the office, he handed me a handwritten memorandum.

Mr. McCLORY. May I inquire for clarification. The next day—this was 1 a.m. that he talked to Mr. Kleindienst; is the next day the same day or is it Monday?

Mr. PETERSEN. You are correct and I am in error. The day I am referring to is Sunday, April 15.

Mr. SEIBERLING. A point of clarification.

Mr. McCLORY, you said 1 a.m. Did you mean a.m.?

Mr. McCLORY. Well, the telephone call to Kleindienst at his home was at 1 a.m. And then he met with Kleindienst the next day, someplace.

Mr. PETERSEN. Yes.

Mr. McCLORY. And that was Sunday at 2 p.m.

Mr. PETERSEN. I am not sure it is material. The telephone call to Mr. Kleindienst was not at his home, it was to his automobile. It was approximately at 1 a.m. That was Sunday, April 15. I met him at the office on April 15 at approximately 2 or 3 o'clock in the afternoon.

Mr. DOAR. And following your meeting with Mr. Kleindienst.

Mr. WALDIE. Mr. Chairman?

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. I may be confused by that exchange. I thought I understood it.

There was a meeting all night, was there not, with the Attorney General, the prosecutors and Mr. Kleindienst at Kleindienst's home, starting at 1 a.m.?

Mr. PETERSEN. Congressman, the meeting began at approximately 1 or 1:30 in the morning on April 15. It lasted until about 5 o'clock in the morning.

Mr. WALDIE. All right.

Mr. PETERSEN. At that time, we left and I next met with Mr. Kleindienst at approximately 2 o'clock the same day, April 15, at his office in the Justice Building.

Mr. DOAR. Then following the meeting with Mr. Kleindienst, I asked you whether or not you accompanied Mr. Kleindienst over to the White House to meet with the President of the United States?

Mr. DENNIS. Mr. Doar, excuse me.

Mr. BUTLER. Counsel, the last question before we got diverted here, Mr. Kleindienst had just handed him a handwritten memorandum. Can we go into that a little bit?

Mr. PETERSEN. Yes. Mr. Kleindienst handed me at that meeting in his office at the Justice Department on April 15 a handwritten memorandum in which he recused himself from any further participation in the Watergate investigation because of his friendship and association with Attorney General Mitchell and others associated with the Committee To Re-Elect the President.

Mr. DOAR. Go ahead.

Mr. PETERSEN. Thereafter, at Mr. Kleidienst's suggestion, I accompanied him to the White House.

Mr. DOAR. That is all right. We have that, I think.

Mr. PETERSEN. You have that? All right.

Mr. DOAR. Did you meet with the President of the United States that afternoon?

Mr. PETERSEN. Yes, I did.

Mr. DOAR. Now, between the 15th and 30th of April 1973, according to the records that were furnished to us by the White House, you had seven meetings with the President and talked to him on the phone 20 times.

Mr. FLOWERS Mr. Chairman.

The CHAIRMAN. Mr. Flowers.

Mr. FLOWERS. Could I request one thing of counsel at this point and I don't have this information further? Is this the first time—would you ask the witness, is this the first time that he ever met with the President on any matter? I think it might be helpful.

Mr. DOAR. I was going to ask him that. I will.

As I was saying, between the 15th and 30th of April, according to the records, you met with the President 7 times and you talked to him on the phone about 20 times. I want to ask you briefly about your recollection of some of those meetings. Before I do, however, I would like you to establish, tell the committee what your prior association had been with President Nixon.

Mr. PETERSEN. Prior to April 15, I had seen the President only on ceremonial occasions, and that very seldom. By ceremonial occasions, I mean such things as a bill-signing or the issuance of an executive order setting up a National Council on Organized Crime, in which as one of a number of people in the room, I was introduced to the President; I am sure he did not remember me.

Thereafter, I met with the President on only one other occasion. I think that was described as a leadership briefing for the Republican leadership. The meeting was conducted in the Cabinet room at the White House. Persons from both the House and the Senate were present. There was a discussion of certain crime legislation and certain positions, as I recall, that we intended to take with respect to the reform of the Federal Criminal Code. Since I was one of the briefing officials, there was some conversation back and forth between me and the President related to the subject matter of the briefing in the course of the briefing. And that was the only occasion on which I can recall conversing with the President of the United States.

Mr. DOAR. You met with the President on the afternoon of the 15th for approximately an hour and 15 minutes. Could you tell the committee members the substance of that meeting?

Mr. PETERSEN. Well, the purpose of that meeting, I was informed, was to advise the President of the information that Mr. Kleindienst and I had received from Mr. Silbert, and his associates early that morning, particularly insofar as it related to his close aides, Mr. Ehrlichman and Mr. Haldeman, to indicate to him that we had achieved a breakthrough in the investigation. And that we thought it important for the President to act immediately to impress upon the public, if you will, the integrity of the investigation, the willingness of the administration to prosecute even its highest officials if such were necessary in the interests of justice. In the course of that, I outlined for him the fact that Mr. Dean was negotiating for immunity and the information that Mr. Dean had given us in connection with those negotiations and indicated to him the limitations upon the use of that information. I told him of Mr. Magruder's offer of cooperation and Mr. Magruder was willing to plead to a charge of obstructing justice.

I told him that to the extent that we were able to determine from our preliminary examination of these individuals, that they corroborated one another. We had no reason to expect collusion, that that implicated Mr. Strachan, who I was informed was an aide to Mr. Haldeman, and we looked upon Mr. Strachan as a potential witness and that Mr. Strachan would, if he corroborated Mr. Magruder, directly implicated Mr. Haldeman, and that if he did so, we would have a prima facie case against Mr. Haldeman; that our information with respect to Mr. Ehrlichman was somewhat less; namely, that he had told John Dean sometime after the break-in that Dean should "deep six" certain information found in Hunt's possession; that Dean had refused to do that; that Dean had given that information to the Director of the Federal Bureau of Investigation; and that Mr. Ehrlichman had suggested that right after the break-in that Hunt be instructed—or Liddy, I guess—that Liddy was to instruct Hunt that Hunt was to leave the jurisdiction and that subsequently, that order was countermanded but Hunt left and went to California anyway; and that while what we had was probably something less than a prima facie case, obviously something less than a prima facie case against Mr. Ehrlichman, nonetheless, we felt that dire action was required.

We had a discussion what that dire action should be. It was my suggestion that they should be relieved of their responsibilities and their resignations requested.

The President indicated that he didn't think that they were involved, that he thought they were fine people, and that they certainly considered themselves innocent of any wrongdoing. But he said that people usually do consider themselves innocent.

I guess I must confess that I was a little exasperated perhaps considering the man's station, perhaps even a little bit rude in consideration of the calm with which he accepted what I thought was shattering information. I made it quite clear that I thought that they ought to leave and that, however clearly I expressed myself of that I can't be certain. But, certainly that this was, in effect, at least in my judgment, the last chance for the administration to demonstrate its integrity by removing those who might be involved in illegal activity.

Mr. DOAR. Did President Nixon say anything about the kind of people Mr. Haldeman and Mr. Ehrlichman were?

Mr. PETERSEN. He expressed great admiration for them.

Mr. DOAR. What did he say?

Mr. PETERSEN. Well, I don't know that I can specifically recall his words. Certainly that they were quality people, that he would be lost without them, that they considered themselves innocent of any wrongdoing, that he was fearful that Dean was trying to implicate others simply to save his own neck; some discussion I suppose, my recollection is as to whether there was any collusion between Dean and Magruder, and I indicated that I didn't think there was. He asked if I would reduce to writing what I had told him with respect to Ehrlichman and Haldeman. I agreed to do so.

Mr. DOAR. Did he say anything about what he thought Mr. Haldeman and Mr. Ehrlichman would be willing—

Mr. MEZVINSKY. Mr. Chairman?

Mr. FLOWERS. Mr. Chairman?

Mr. BUTLER. Counsel?

Mr. FLOWERS. Mr. Chairman, could I ask counsel to inquire was that the memorandum that we have a copy of, the reduction to writing, and is it a part of our record?¹

Mr. DOAR. It is, Congressman Flowers.

Mr. FLOWERS. Thank you.

Mr. DOAR. Dated in the chronology April 16th.

Mr. RANGEL. Mr. Chairman?

The CHAIRMAN. Mr. Rangel.

Mr. RANGEL. Could we inquire as to a time of this April 15th meeting with the President, the time on that Sunday?

The CHAIRMAN. Will the witness try to respond to that?

Mr. DOAR. I gave to the witness and prepared a memorandum from the logs. Now, the logs indicate that the meeting was between 4 and 5:15.

Mr. RANGEL. Mr. Doar, was that conversation taped?

Mr. DOAR. That conversation was at the Oval Office or in the EOB office on the day that the tape ran out.

Mr. RANGEL. Thank you.

Mr. BUTLER. Counsel, before this interruption the witness was saying, "I was asked if I would reduce this to writing." Now, I think he was in the process of telling a little bit more about that, and we went off in another direction. Could the witness complete that part of what he was going to tell us?

Mr. PETERSEN. I think I may have seemed hesitant, but I think I had completed it. I was asked to reduce to writing the information I had on Ehrlichman and Haldeman, and I agreed to do so. I did so by memorandum dated April 16, 1973.

Mr. BUTLER. Thank you.

Mr. DOAR. And did you deliver that to the President the next day?

Mr. PETERSEN. I delivered that to the President the next day, April 16, 1973.

Mr. DOAR. Now, did President Nixon say anything to you about what Mr. Haldeman and Mr. Ehrlichman would be willing to do for him?

Mr. PETERSEN. Yes. I think I know to what you are referring, but I can't fix the date of that. I am certain that was not in the April 16th meeting.

¹ See HJC "Statement of Information," book IV, pt. 2, pp. 645-646

Mr. DOAR. The April 15th meeting you mean?

Mr. PETERSEN. April 15th meeting, excuse me, because I was alone in the office, and at the time that conversation to which you are referring occurred, it took place not in the Executive Office Building but in the Oval Office in the White House, and the President in terms of what should be done by him with respect to Haldeman and Ehrlichman indicated that he knew what my recommendation was, but they were fine people and he had to be fair, and that he indicated that they were loyal, and they were the type of people who would, as he put it, fall on a sword for him if need be.

Mr. DOAR. Now, what information, if any, did President Nixon—I will strike that.

Did the matter of Attorney General Kleindienst rescuing himself come up at that meeting on April 15th?

Mr. PETERSEN. Yes. There was a discussion of the fact that Mr. Kleindienst had rescued himself, and that he had given me a memorandum to that effect. I have to say that I was not aware that there was any prior discussion between Mr. Kleindienst and the President on that point.

There was also discussion, and it was raised by Mr. Kleindienst, whether or not the President thought Mr. Kleindienst should resign. The President asked me what I thought of that, and I said that I thought that absolutely he should not, that there was no indication Mr. Kleindienst was involved, and his resignation would only cast doubts not only on Mr. Kleindienst but on the Justice Department as such, and I thought that that was most unwise. The President agreed.

There was then discussion as to whether or not a special prosecutor should be appointed. The President asked me what I thought of that, and I said that I thought the Justice Department was quite competent to do the job, and the appointment of the special prosecutor would seem to be a confession that the Justice Department was for one reason or another incompetent to do the job and I didn't think that that would be wise. I thought that the administration or any administration ought to be in a position where it could say that under this system we are quite capable of cleaning our own house. The President agreed with that.

Mr. FISH. Mr. Chairman, could I inquire?

The CHAIRMAN. Mr. Fish.

Mr. FISH. This conversation about Mr. Kleindienst's resignation, and the special prosecutor, did that take place on the 15th also?

Mr. PETERSEN. Yes, sir.

Mr. FISH. And Mr. Kleindienst was present?

Mr. PETERSEN. Mr. Kleindienst was present.

Mr. FISH. Thank you.

Mr. SEIBERLING. Point of clarification. It was not clear who brought up the subject of special prosecutor?

Mr. PETERSEN. My recollection is Mr. Kleindienst brought up the question of a special prosecutor, but I can't be positive of that. It may have been that the President told me that Mr. Kleindienst had said there was a special—that a special prosecutor had—ought to be appointed. Again, that was a position that Mr. Kleindienst had long held, primarily I suppose because of his relationship with Mr. Mitchell.

He had long been of the opinion that the best thing to do would be to appoint a special prosecutor.

Mr. FLOWERS. Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Flowers.

Mr. FLOWERS. Was Mr. Kleindienst present for the entire hour and 15 minute conversation that Mr. Petersen had with the President?

Mr. PETERSEN. Mr. Kleindienst was present for the entire conversation that I had with the President. I should add, however, that when he left the office, the President called Mr. Kleindienst back.

Mr. FLOWERS. Thank you, sir.

Mr. McCLORY. Further point of clarification, Mr. Chairman.

Mr. CHAIRMAN. Mr. McCClory.

Mr. McCLORY. Did I understand Mr. Petersen made a memorandum of this conversation which he has?

Mr. DOAR. I don't know that. Did you make a memorandum of the 15th conversation?

Mr. PETERSEN. No, I did not make a memorandum of the conversation on the 15th, and I did not make a memorandum of any of my conversations with the President.

I did, at the request of the President, agree to make a memorandum of the information that we then had with respect to Mr. Haldeman and Mr. Ehrlichman, and that is the memorandum of April 16, 1973, that we previously referred to, a copy of which was given to the President on April 16, 1973, and a copy of which is in your record.¹

The CHAIRMAN. Mr. Doar.

Mr. DOAR. Did you receive any direction from the President at that meeting with respect to the conduct of this investigation?

Mr. PETERSEN. Well, direction only in the most general sense of the word, that we have to develop this thing, you do what needs to be done, I want the truth brought out, generalities in that sense of the word, and he indicated, harkened back, if you will, to his investigation of the Alger Hiss case and indicated that in his experience he thought the Justice Department at that time had not performed adequately, but once they got on the ball they had done a quite good job, and suggested that I read the chapter in his book about the Hiss investigation.

Mr. DOAR. Did he direct you to report directly to him about the progress of your investigation?

Mr. PETERSEN. Yes, in a sense, that he wanted to be kept informed and suggested that I call him, or that he would call me as the case may be. And I said, well, I would just as soon have you call me because I don't feel that I am going to feel quite confident about interrupting the President of the United States and telling him the mundane developments in a criminal case, so if you want to be —

Mr. DOAR. At any time in the next days through the 30th of April did you report to anyone else between the President and yourself with respect to your investigation in the Watergate matters?

Mr. PETERSEN. No, sir.

Mr. DOAR. You reported directly to the President?

Mr. PETERSEN. That's right, with the exception of the Kleindienst matter, and by that I mean the occasion when I went to Mr. Klein-

¹ See HJC, "Statement of Information," book IV, pt. 3, 63.2, p. 869.

dienst concerning the Ellsberg information which the President had told me not to pursue.

Mr. WALDIE. Will the counsel propound a question as to when Petersen was told not to pursue the Ellsberg case?

Mr. DOAR. Yes, I will. I am going to develop that.

Mr. WALDIE. All right.

Mr. DOAR. Did you explain to the President at that time the two aspects of the Watergate investigation; one involving criminal responsibility for the Watergate break-in, and the second criminal liability for the coverup of that break-in?

Mr. PETERSEN. My recollection is that I did, Mr. Doar. Mr. Dean had indicated to us that—well, information that fell into two categories, and at the time of my conversation with the prosecutors they were, I think, most firmly of the opinion that a broader, more encompassing case was what they considered to be the coverup rather than the conspiracy to commit the burglary itself.

Mr. DOAR. And this is what you reported to the President?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. During that meeting, what information about these two criminal investigations did you receive from the President, what facts?

Mr. PETERSEN. I have no recollection of receiving any specific facts from the President in connection with either that conversation, occasion, whether in that conversation or others, but at least repeatedly the President referred to his conversation with John Dean on the 21st of March indicating that that was the first he had heard of this, that up to that point it had been left to Dean's responsibility, and that on the 21st of March in his discussion with Dean there was some discussion of Hunt's demands for money. And he indicated that he had drawn Dean out, as was his manner, and at the conclusion of the conversation said that would be wrong, that it, in effect, would be blackmail. In any event, they couldn't do it, referred to that repeatedly.

He indicated that following the conversation with John Dean on the 21st, which I took it was something less than clear, he had suggested that John Dean go up to Camp David and write a report, and he informed me that he came back and he did not have a report, and that he said he was unable to do so. And the President commented I guess he was unable to do this because he is in it up to his ears.

Mr. DOAR. You say the President came back, referred to this conversation, the 21st, repeatedly. What do you mean by that?

Mr. PETERSEN. Well, I suppose by repeatedly I mean at least on more than three occasions, but specifically how many—he referred to it sufficiently that it occurred to me that he—it was a matter of some concern to him.

Mr. DOAR. Now, other than that, did the President give you any other facts with respect to the matters that you were investigating with respect to the Watergate matter?

Mr. PETERSEN. No, he did not, with this possible exception, that he was persuaded that John Ehrlichman had not told Pat Gray to destroy information that had been in Hunt's possession, and which had been delivered to Gray by Dean and Ehrlichman. He was quite convinced of that, and made reference to that on a couple of occasions, the last being at the time of the telephone conversation when we discussed whether or not Pat Gray's resignation should be requested.

Mr. DOAR. Can you fix for the record the date of that conversation?

Mr. PETERSEN. Not by date, Mr. Doar. It was the night before Pat Gray resigned.

Mr. DOAR. I think that was on the 27th of April, members of the committee.

Now, in the next few days following the 15th you reported to the President on occasion, is that correct?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. And in detail?

Mr. PETERSEN. Reasonable detail, yes, sir.

Mr. DOAR. You had some notes when I interviewed you as to the things that you reported to the President in the next several days. I wonder if you could—I think this is the easiest way, Mr. Chairman, to present the material—if you could just tell the committee what you reported to the President about the status and progress of your investigation?

Mr. LOTT. Mr. Chairman, could I inquire just for the record, Mr. Doar?

The CHAIRMAN. Mr. Lott.

Mr. LOTT. Were these notes made during this period of time as you were having these conversations, or are these notes made just recently to have your recollection in some order?

Mr. PETERSEN. These were notes that were made by me in preparation for my conversations with the President at the time. The cover note reads as follows—

Mr. LOTT. Are these dated, if I could ask that, these notes?

Mr. PETERSEN. That's what I'm getting to, sir.

Mr. LOTT. OK. Fine.

Mr. PETERSEN. The cover note says: "The attached notes represent the subject matter of my discussions with the President on Sunday, April 15th, Monday, April 16th and Tuesday, April 17th, HEP. 4/18/73."

Mr. LOTT. Thank you.

Mr. CONYERS. Mr. Chairman, inquiry.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Would this be appropriate to be solicited for our record? Do they have that significance, and if they do I would like the chairman to keep that in mind as they are further elaborated upon.

The CHAIRMAN. Well, these are Mr. Petersen's personal notes, aren't they, Mr. Petersen?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. And you are now going to, you are now going to read from those notes?

Mr. PETERSEN. Yes, sir. And I have no objection to submitting them for the record.

Mr. McCLODY. Mr. Chairman, may I suggest then that they be marked for identification and be made a part of the record.

Mr. DOAR. All right. We will, with the chairman's permission, have these notes to be marked Petersen Exhibit 4 for the record.

The CHAIRMAN. They will be so identified and produced into the record.

[The notes referred to above were marked Petersen Exhibit No. 4 and follows:]

[Peterson Exhibit No. 4]

Form CM-1a
(Rev. 1-29-69)

DEPARTMENT OF JUSTICE

ROUTING SLIP

TO:	NAME	DIVISION	BUILDING	ROOM
1.				
2.				
3.				
4.				

<input type="checkbox"/> SIGNATURE	<input type="checkbox"/> COMMENT	<input type="checkbox"/> PER CONVERSATION
<input type="checkbox"/> APPROVAL	<input type="checkbox"/> NECESSARY ACTION	<input type="checkbox"/> AS REQUESTED
<input type="checkbox"/> SEE ME	<input type="checkbox"/> NOTE AND RETURN	<input type="checkbox"/> NOTE AND FILE
<input type="checkbox"/> RECOMMENDATION	<input type="checkbox"/> CALL ME	<input type="checkbox"/> YOUR INFORMATION
<input type="checkbox"/> ANSWER OR ACKNOWLEDGE ON OR BEFORE _____		
<input type="checkbox"/> PREPARE REPLY FOR THE SIGNATURE OF _____		

REMARKS

The attached notes represent the subject matter of my discussions with the President on Sunday, April 15, Monday, April 16 and Tuesday, April 17.

HEP 4/18/73

FROM:	NAME	BUILDING & ROOM	EXT.	DATE
ASSISTANT ATTORNEY GENERAL	Criminal Division	ROOM 2107 EXT. 2601		

Post. June 17.

① april 16
1973
2 HK

Dear (1) Mitchell says

actuale Kalmbach
for money.

Kalmbach to be subpoenaed.

(2) Dear go to Haldeman

for auth to contact

Kalmbach & does so.

(3) 3.50,000 returned in
money over which Haldeman
exercised control. delivered
not to comm but to Lo Rue

4 Dear says he reported on
a daily basis to Haldeman
& reported to him subornation

(3)

②

of perjury in connection
with Magruder grand
jury appearance.

Dean ⑤ says Halderman
know he was getting
FBI reports

Erlichman first June 17

Taddy confessed to Dean who
tells Erlichman - June 19

Dean meets with Colson

"Erlichman - Erlichman

issues order for Hunt &

Leary - Dean passes info

to Taddy who issues

③

inclusion to that

Colon & Dean of the

active Eisenhower loyalist

hand in back side &

Eisenhower Councilman

after

Colon to the airport - confounding

w. others

Eisenhower meets with

Colon no emergency for

Went. Colon goes to

Eisenhower & Dean. Eisenhower

got Dean meeting him

4

we will do what we
can - no promises

5.

Out set up

Dean says Gray was
in Elekman's office - Dean
brought up in - gave info
to Elekman who gave it to
Gray.

Dean says Erlichman
 knew of money payments

Calson, }
 Helmsbush } to appear before
 LaRue } S.I.

Magruder's resignation?

albert 966-7241

LaRue told Mitchell
 "it's all over"

Was LaRue in finance comm.

(C.)

Larue is reluctant on
 Mitchell approval of plan
 but admits being present
 at time budget is presented
 for approval - says decision
 deferred but admits plan
 could not have been
 acted on without Mitchell
 approval.

Larue admits participation
 in obstruction of justice

The CHAIRMAN. Please proceed.

Mr. PETERSEN. The only thing I would suggest, Mr. Chairman, if it's permissible, I would like to have copies made of these and these returned to me.

The CHAIRMAN. Of course.

Mr. DOAR. We will make a copy perhaps and see that you get a copy back, copies made and get those back to you.

Mr. PETERSEN. I would prefer to have the originals.

Mr. DOAR. That's agreeable.

The CHAIRMAN. That's fine. There is no objection.

Mr. PETERSEN. These series of notes I have April 16, 1973, in the corner, and it's noted: "Post June 17," which is my shorthand way of suggesting this relates to the coverup phase of the investigation. "Dean" which indicates that the information came from John Dean, "Mitchell" says activate Kalmbach for money. Kalmbach to be subpoenaed.

"(2) Dean go to Haldeman for authority to contact Kalmbach and does so," and as Dean did go to Haldeman.

"(3) \$350,000 returned in May over which Haldeman exercised control. Delivered not to committee to Re-Elect the President, but to LaRue."

"Dean says he reported on a daily basis to Haldeman and reported to him subordination of perjury in connection with Magruder's grand jury appearance."

"Dean says Haldeman knew he was getting FBI reports."

Then, "Ehrlichman, post June 17.

"Liddy confessed to Dean, who told Ehrlichman June 19. Dean meets with Colson and Ehrlichman, Ehrlichman issues order for Hunt to leave. Dean passes information to Liddy who issues instructions to Hunt. Colson and Dean then advise Ehrlichman flight of Hunt is a bad idea and Ehrlichman countermands order.

"Colson to be subpoenaed, corroborating witness.

"Bittman," that's Bill Bittman, who was Hunt's counsel, "meets with Colson re clemency for Hunt. Colson goes to Ehrlichman and Dean. Ehrlichman says to Dean notify him we will do what we can, no promises."

Then the "deep six information," which related to Ehrlichman. "Dean says Gray was in Ehrlichman's office, Dean brought information in, gave information to Ehrlichman who gave it to Gray. Dean said Ehrlichman knew of money payments."

Then I have a note that "Colson, Kalmbach, and LaRue to appear before the grand jury."

Then I have a note, "Magruder's resignation," and there was a question mark as to whether or not his resignation should be immediately requested, or we should continue our negotiations, so that is not reflected in the notes.

I have Silbert's telephone number at home, and then some notes with respect to LaRue. "LaRue told Mitchell 'it's all over.'" Then there's a question that I have, "Was LaRue on the Finance Committee?"

Then there's a further note on LaRue, conclusionary note, "LaRue is reluctant on Mitchell approval of plan, but admits being present

at time budget is prepared for approval. Says decision was deferred, but admits the plan could not have been activated without Mitchell's approval."

"Mr. LaRue admits participation in obstruction of justice."

Those are the pages that I consider to be information that I substantially reported to the President on those dates, April 15th, April 16th, and April 17th.

Mr. DOAR. How many pages were in there just for the record?

Mr. PETERSEN. Six pages plus the cover sheet.

Mr. DOAR. Please continue.

Mr. PETERSEN. That in essence is it.

Mr. DOAR. What, if any, response did the President make to this information?

Mr. PETERSEN. I suppose it's kind of difficult to say, and I think most of the comments were in terms of generalities, you know, I expect you to do what needs be done, I just want to proceed in fairness, I have got to be concerned that these people, White House staff are treated fairly. Should I request Dean's resignation, and I said no, of course not, that he was, in essence, the first cooperating witness, and we didn't want it to appear that he was being subjected to reprisal. The President agreed with that. Suggested also, therefore, however, that they, that is the White House people, and by that I took him to mean Ehrlichman, Haldeman, and Dean, should be treated alike. And I agreed that at least during the pendency of our negotiations with Dean.

The President expressed his reservations about immunity, the grant of immunity to individuals who had participated in a crime. We had a continuing discussion over the days with respect to the standards for immunity and the judgment involved. Ultimately that came down to the point where the President I guess indicated rather forcefully on the 27th of April his opposition to immunity, and I indicated, I suppose rather forcefully, that I was aware of the nature of the judgment and the difficulty of the judgment, but that the judgment was mine, and he agreed to that, suggested that his comments were opinion comments.

Mr. DOAR. Now, during those few days following the 15th of April, did you have a discussion with the President with respect to immunity for John Dean?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. And did you have a conversation with the President with respect to whether or not he had a tape recording of the conversation where Dean said he had been promised immunity?

Mr. PETERSEN. Mr. Doar, that conversation, as I recall, was a telephone conversation which—well, it was probably two telephone conversations, the first of which took place in the middle of the afternoon on April 18th. It was a call placed by the President to me, and he rather irately questioned whether I had accurately informed him of the status of the Dean matter concerning immunity in that he had been informed, and I took it from his conversation that he had been informed in his conversation with Dean on April 15 that John Dean had been immunized.

Well, I was taken aback at that because I think there was no other way to construe the conversation but that either I had deliverately

misled the President, or was negligent, or at least imprecise with respect to my recitation of the facts. And I assured him that Dean had not been immunized, and that I was certain of it, and the only way that contention could be advanced is if Dean had, was alleging that he was immunized by virtue of estoppel. We discussed estoppel, and I didn't think, knowing Mr. Dean's lawyer, Mr. Shaffer, who I considered to be a man of integrity, that he would be taking that position, and in what we thought were clear understandings, and that certainly I was persuaded that I had not authorized any immunity, and that no one else had the authority to authorize immunity.

And he contested with me on that point, and finally I said well, it doesn't make any sense for us to argue about it because neither one to the immunity was correct; that is to say that John Dean had not know that he is not contending that we have not immunized him by estoppel, and you weren't present, so let me check with Silbert.

So, I called and got off the phone, and he said let me know. And I called Silbert, and Silbert went through the same routine I had gone through, of course not, and I said yes, I know that, and now check with Charley Shaffer. And he did call Shaffer, and Shaffer confirmed that our understanding of the status of the negotiations with respect to the immunity was correct; that is to say that John Dean had not been immunized, either formally or by way of estoppel.

I have told you, Mr. Doar, that I then called the President back, and you reminded me that the records reflect that the call came from the President. As I pinpoint my recollection, I think that what I did was call the White House and tell them that the President had requested me to call back, and thereafter the President called me.

In that subsequent conversation which was about 6:30 or 7 o'clock at night in my office, I first advised the President of what I had learned from Mr. Silbert and he indicated well, you know I have got it on tape if you want to hear it, to indicate that one, he felt he was right, and that I was wrong, and I said well, you know, I don't want to hear the tape, you know. I accept your word for it. But, you know, it is not the fact. There has to be some misunderstanding. And then he said in effect, "What else is new?" And at that point I said well, I have on my desk a memorandum indicating that Hunt and Liddy were responsible for a break-in at the office of Mr. Ellsberg's psychiatrist.

Mr. CONYERS. Inquiry, Mr. Chairman.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Was the tape that the President referred to, is he saying that he had the tape that showed that the immunity had been granted? Was that the impression we were getting from the witness?

Mr. PETERSEN. He said he had a tape which reflected that his recollection of it was precise, and that is that Dean had been immunized. Now, I didn't ask him what that tape was, whether it was a memorandum that he had dictated, or whether it was something else. But well, you know, there was no need for me to hear it. I just was willing to take the word of the President. If that's what he said, that's what it was. But, it wasn't so.

Mr. DOAR. You were saying that the President had asked you what else was new and you reported to him about something else?

Mr. PETERSEN. Yes, sir. I told him that I had received information that Liddy and others were responsible for a break-in of the office of Mr. Ellsberg's psychiatrist.

Mr. DOAR. And how did the President reply to that?

Mr. PETERSEN. Well, rather angrily, and it's noteworthy because this—I guess I was chewed out twice by the President, twice in the same day, which was a novel experience, and really not very pleasant, if I may add. But, it makes it stick in one's mind.

And he said, "I know about that. Stay out of that. That's a national security matter. Your mandate is Watergate," and in effect, do what you are supposed to be doing and don't be messing in national security matters, national security matters are my responsibility. I said yes, sir, and I got off the phone and I called Mr. Silbert, and I told him the President said not to do anything about that.

And I called Mr. Maroney of my staff. I don't remember whether that night. My recollection is I couldn't get Mr. Maroney at that point, he had gone home, and I called him later. I think I called him at home after I got home because I was concerned that he would do something about it in the interim, and I told him in effect what the President had told me.

I guess I should indicate to you my conversation with the President. I told him well, in effect, you know, don't get so excited, we don't have any information about that in any event, we haven't corroborated it, and the report I have gotten back is that we do not have any information in our files that would indicate that in any way that it came from a psychiatrist, or whether legal or illegally. And I did ask him whether he, if he knew about this fact. Did he know whether any evidence was obtained, and he said one, he knew that no evidence was obtained, and I said good, because that at least, to my mind, minimized the legal implications that might flow from the break-in. And at that point I went into what I call sober reflection based upon the proposition of whether or not that information was, in fact, required under any rule of law, a subject matter to be disclosed to the court.

And I consulted with Mr. Maroney, in whom I had confided, and with the chief of my appellate section to whom I put it in a hypothetical case as to whether or not the disclosure of this information was mandated by *Brady v. Maryland*,¹ which, in effect, holds that material in the hands of the prosecution which touches on guilt or innocence needs to be disclosed.

Mr. Maroney and some of his associates suggested that since this information did not go to guilt or innocence, that nothing had been obtained, and that since at most it would lead to a motion to suppress, which if granted would have meant there was nothing to suppress, we were under no obligation to disclose to the court.

I guess the chief of my appellate section suggested that he didn't think it was disclosable, but if it was a major, sensitive case that maybe it would be prudent to do so.

I studied that problem, pondered it I should say, until the 25th of April, at which time I went to Mr. Kleindienst and told him that I wanted to discuss it with him. I discussed it with him and told him that whether we were right or wrong on the Brady issue that this was not

¹ 373 U.S. 83 (1963).

the case to test, and that I thought we ought to disclose it. We talked about it for most of the morning, and he put the question to Mr. Griswold, the Solicitor General, in hypothetical form at lunch. Mr. Griswold suggested too that it probably would be prudent to disclose it.

I had told Mr. Kleindienst of the direct order of the President, and that we would have to go back to him, and I thought the President was going to be very upset, and that we might better be prepared to resign. Mr. Kleindienst said fine, okay. I don't mean by that to suggest he was eager, you know. It was a very sober conversation, and by no means in a light vein.

He asked for Mr. Silbert's memorandum to me disclosing the information which we had received from Mr. Dean and other memorandum which were, in effect, memorandum from Mr. Martin of my staff to Mr. Maroney indicating that they had no information, that they had checked with the FBI and the FBI had no such information, and that we couldn't identify anything in our files which would tend to corroborate this information.

I gave Mr. Kleindienst those memorandums and he went to the President, came back and told me that the President had reversed himself and instructed me to, by memorandum, to make the information available to the court and defense counsel.

Subsequently we made it available at least initially only to the court. That decision was made by me at the suggestion of Mr. Dave Nissen, who was trial counsel, the suggestion being that we leave to the court whether or not it was producible to the defendants. I agreed with that and told Mr. Kleindienst I agreed to that, and he suggested do whatever you think is appropriate in the circumstances, assuming that it is disclosed to the court. We did disclose the information to the court, and thereafter they conducted an investigation to—thereafter conducted an investigation to more fully determine all of the facts and circumstances surrounding it, including the fact of whether or not there had been, in fact, a burglary, because at that point we had no information that a burglary had, in fact, been committed.

The reason for that was we subsequently learned, as a result of the investigation, that Dr. Fielding's offices were in I suppose what we would term as a medical office building, and that someone had burglarized two other offices. I don't know the man or his background, but someone whom I would suppose would fit the definition of a junkie breaking into doctors' offices. And he hit three rather than two, or confessed to three, whereas, in fact, he had only broken into two, so the Fielding breakin was lined in by the local police as solved, so that we did not know, and there was no record of a burglary being committed that was involved at that point.

Subsequently the record was clarified with respect to that, obviously.

Mr. DENNIS. Mr. Doar, while we are on the point, are these memos that Mr. Kleindienst took to the President in our record, and if not—

Mr. DOAR. They are in our record.

Mr. DENNIS. They are in our record?

Mr. DOAR. Yes, sir.

Mr. DENNIS. Do you have any general idea where?

Mr. DOAR. They are in book VII, part 4, items 119.1, 119.2, 119.3, and 124.3.

Mr. DENNIS. Thank you very much.

Mr. DOAR. Mr. Petersen, on this same subject of the Ellsberg matter, I will ask you whether or not on the day following your conversation on the 18th with the President whether you had a meeting with the President on the morning of the 19th where the Ellsberg matter was further discussed?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. And could you tell the members of the committee the substance of that discussion?

Mr. PETERSEN. There was a discussion with the President in the Oval Office in the White House in which the President again reiterated that the matter that we had discussed the preceding evening, and that is the Ellsberg breakin, was a national security matter, and that it had been conducted, the investigation had been conducted in essence at his request in connection with the Pentagon Papers matter, and that he had found it necessary to utilize people at the White House because of what he considered to be the unwillingness of Mr. Hoover to conduct a needed investigation. He attributed Mr. Hoover's reluctance to the fact that Mr. Hoover was a friend of an individual by the name of Marx, who he informed me was the father-in-law of Mr. Ellsberg, and that subsequently he said the Bureau did get into the matter and did you a rather good job of developing the case against Dr. Ellsberg.

He indicated his concern with national security matters. I told him that I was a relatively, relative neophyte in this area, that I had just come to my national security responsibilities by virtue of the assignment of the Internal Security Division's functions to the Criminal Division in the middle of March, that I had some occasion to take issue with the State Department in connection with the manner in which they had suggested or asked for electronic surveillance investigations to be conducted by the FBI, and he told me to do whatever I thought was necessary in the premises. He indicated that Hunt had, was engaged in national security work, and suggested that I ought not to get into that matter, that it was, it would be inimical to the security of the United States.

I told him that I really couldn't stay out of that, which I did not know about, and he indicated some agreement. But, as I recall he didn't give me much information, if any, about what Mr. Hunt was involved in. So, other than that he was involved in national security matters, I really didn't know what.

Mr. DOAR. During that discussion that morning——

Ms. HOLTZMAN. Mr. Chairman?

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Mr. Doar, I wasn't quite sure I heard. The witness was speaking very rapidly at points. Did he say that the President indicated that we had done a good job in the investigation in getting material in the trial? Is that the testimony, and if so, was the witness, who is the witness referring to?

Mr. PETERSEN. Ms. Holtzman, I am not sure I understand your question.

Mr. RAILSBACK. Mr. Chairman, could she speak right in the microphone?

Ms. HOLTZMAN. I thought the witness had testified that somebody said in this conversation with the President that we had done a good

job in investigating this matter, and which helped in the Ellsberg trial or words to that effect.

Mr. PETERSEN. No, I don't think so. What I was trying to say, perhaps inartfully, that after the FBI initial reluctance to conduct the investigation they did, they, the FBI, subsequently did undertake the investigation, and that they, the FBI, had done a good job in developing the case against Ellsberg.

Mr. DOAR. During that discussion did you have a conversation with the President about the directorship of the FBI?

Mr. PETERSEN. Yes, sir.

Mr. DOAR. Could you tell us?

Mr. PETERSEN. In the course of that conversation, and I can't be quite certain how it came up, the President asked me would I like to be Director of the FBI. And I said that that was not a job that anybody should run for, that I, at least, considered that job to be almost as difficult as his. And he indicated that he had someone in mind for the job, and it would be given to that someone as soon as that someone finished his current assignment.

Then it seems to me the President went off on what I considered a tangent, but it may be tangential only because I was still focusing on what had been just said, and I was not quite satisfied I guess with my answer, and probably not paying close attention to what the President was saying, as awkward as it is to say that.

I went back to the subject and indicated that I prayed that what he did was right and what I did was right, and if that ended up with me being Director of the FBI, that was fine, and if it didn't that was fine too. And at that point, he seemed to take some offense at my remark and said, rather sharply, "Well, I wasn't offering you the job." Well, I understood that. Well, you laugh, but it may have been entirely presumptuous on my part too.

Mr. DOAR. Now, during this time, and I am referring now between the 17th and the 25th, did you have further, make further reports to the President with respect to Gordon Strachan and Jeb Magruder?

Mr. PETERSEN. Well, yes. With Magruder, with respect to our difficulty in negotiating the plea, or at least the timing of the plea, Magruder's concern was that he would be clapped in jail immediately, and since we wanted him as a cooperative witness, we didn't want him, again, treated differently than the others, and the question of whether or not we could, if he did enter a plea, keep him out of jail until such time as the others were sentenced. Our discussion with Magruder turned also upon the anticipated hearings of the Ervin committee, mine being a prosecutorial attitude that hearings by the Ervin committee would create problems under *Delaney v. United States*,¹ that is, pretrial publicity problems, and that we had a responsibility as prosecutors at least to be able to show on the record that we did all that we could to minimize potential pretrial publicity, and that I intended to talk to Senator Ervin about that.

But, I wanted to do so at or about the time that Magruder's plea was entered, so that I would have something definitive to point to in my conversation with the Senator to establish one, that we had, indeed,

¹ 199 F. 2d 107 (1952).

made a breakthrough, that we did have a witness that had pleaded guilty and was willing to cooperate.

With respect to Mr. Strachan, I pointed out that he was a potential corroborating witness with respect to the information made available by Mr. Dean and Mr. Magruder. And Mr. Magruder's information with respect to Mr. Strachan and Mr. Haldeman was that Mr. Strachan, who was regarded as Mr. Ehrlichman's aide, had been given information—excuse me, Mr. Haldeman's aide, having given information about the budget for operation Gemstone, which Magruder concluded Strachan made available to Haldeman.

Magruder had also said that summaries of the intercepted conversations had been made available to Strachan, and again he assumed for delivery to Haldeman. And I advised the President that we were trying to develop Strachan as a witness, and obviously he would be a significant witness, not only with respect to the case, but with respect to the President's doubts about the culpability of Haldeman. And for that purpose we were trying to make a deal with Mr. Strachan, that we were encountering delays, and we had to send him out to get counsel so he would be properly advised.

When he did, when he did testify, he did not corroborate Magruder. Indeed, he testified contrary to the information that Magruder had given us, and that I suggested that Mr. Magruder and Mr. Strachan be given lie detector tests, that I would advise them of the results. The lie detector tests were administered. Mr. Strachan failed his, Mr. Magruder passed his, and I advised the President of that fact.

Mr. DOAR. Let me ask you one or two more questions. You had a meeting with the President on the afternoon, late afternoon of April 25, 1973, between 5:37 and 6:45. Do you recall that meeting?

Mr. PETERSEN. Not well. I do recall at that meeting the President indicated that Mr. Kleindienst had been over to see him, and whatever he had previously indicated to me he wanted to do only what was right, and we would go ahead and make the disclosure to the court in the *Ellsberg* case, and do whatever was necessary to follow up that information as a result of the disclosure.

Beyond that, I have no good recollection of the meeting, Mr. Doar.

Mr. DOAR. On that afternoon I would like to ask you whether or not the President said anything to you about having a tape recording system that had recorded the conversation on the morning of March 21st to which he had referred?

Mr. PETERSEN. No, sir, not then or at any other time did the President ever refer to a tape recording system, or capability. I have no knowledge of that whatsoever.

Mr. DOAR. Now, I want to ask you whether or not the President at that time indicated to you that Mr. Haldeman had listened to that tape recording system, that tape recording of the conversation on March 21st, that afternoon? Was anything said about that?

Mr. PETERSEN. No, sir.

Mr. DOAR. During that period was there any other information that you recall pertinent to your investigation that the President furnished to you? The 15th and 25th, through the 25th of April?

Mr. PETERSEN. No, sir. And if I can harken back a moment to April 15th, in connection with the April 15th conversation the President had expressed his confidence in Mr. Haldeman and Mr. Ehrlichman, as

well he might. They were aides for a long period of time, and he knew them quite well. And the President didn't know me from Adam, and in effect, I was in there suggesting that well, you ought to cause the resignation of your two most trusted aides. And in the course of that I felt that since the President didn't know me, and since he was getting from me a recitation of information which was coming from Dean and Magruder to the prosecutors, and thence to me, and thence to him, that in view of the nature of the responsibility that he had to discharge, that it would be, indeed, appropriate for him to talk to John Dean, so he could learn directly from John Dean what John Dean was telling the prosecutors. And, of course, as you know, that meeting did occur.

As a consequence thereafter, after April 15, I think that it was implicit in conversations between us that he knew from his conversation with John Dean what I knew from the prosecutor's conversation with John Dean in the course of their negotiation. But I mentioned that it is indicative of the fact that on April 15, the President did not tell me that he had other information, where I had heard all of these things from John Dean before. Indeed, he had suggested that when Dean came in and tried to tell him about these things, that he had suggested that Dean go up and write a report, put all of this in writing, and that Dean was unable to do so. As he said, the reason Dean was unable to do so because he, Dean, was in it up to his ears.

So I don't think we ever got into a discussion of what I now know Dean told him on March 21.

Mr. DOAR. Did you have any discussion with the President during that 10 day period with respect to the use of grand jury material?

Mr. PETERSEN. In the course of the conversation, the President indicated that he wanted to be advised of the scope of matter of these things, but that he did not want grand jury information. Implicit in that, I think, was perhaps at least a thought in his mind that he was not entitled to grand jury information. I don't believe that is the law. I think the President as Chief Executive is entitled to grand jury information, at least to the extent that the prosecutor feels it appropriate to make that information available in the course of, in furtherance of his duties. Which is almost the language of rule 6(e).

Mr. RAILSBACK. Mr. Chairman?

The CHAIRMAN. Mr. Railsback.

Mr. RAILSBACK. I hesitate to interrupt, but I think this is awfully important. The witness has just given us his opinion about the law as far as the President getting information. I wonder if counsel would ask him what he believes the law to be about divulging that information to possible potential defendants?

Mr. DOAR. Mr. Petersen, what do you believe the law to be with respect to Presidential authority to divulging grand jury information that comes to him from the prosecutors to anyone, including potential subjects of the criminal investigation?

Mr. WIGGINS. Citing authority.

Mr. PETERSEN. I don't know who said that, but you do me great credit. I am not sure I carry that authority around with me.

The CHAIRMAN. But you are the Assistant Attorney General?

Mr. PETERSEN. Yes sir. Rule 6(e) of the Federal Rules of Criminal Procedure prohibits the disclosure of grand jury information by any-

one except in pursuance of their duties and to the extent that—and it does not fall directly within that exception—only on order of the court.

But I should say before I touch upon Mr. Railsback's question that we disgress because to the extent that I am aware what the President was getting was ultimate fact with respect to the grand jury. The evidentiary fact which I have alluded to was information that was obtained by the prosecutors before the witnesses went into the grand jury. So that whatever the rule of law may be, the President—neither divulging to the President grand jury information, which I think would be permissible; but that information was not grand jury information. And to go one step further, had it been grand jury information, it would, in my opinion, be permissible for the President to use that information in the course of his, the President's, duties to advise Mr. Ehrlichman and Mr. Haldeman of the charges against them so that he might determine what administrative action was necessary on his part.

But again, I reiterate it was not grand jury information. The President said he didn't want grand jury information. And when I delivered to him this memorandum previously referred to, which was dated April 16, 1973, he said, now, I want everything you have on these people.

I said, well, I will try and give it to you.

And in the course of that week, if I may make reference to my associate, Mr. White, here, I had him search the record. But I had to search the record for what information we had, other than grand jury information that was not included in this April 16 document, that we might give to the President. And at the end of that week, Mr. White informed me, we don't have anything, Henry, other than what is grand jury information, other than that which you have already given to him. And I advised the President, if I am not mistaken, in a telephone call that Friday night.

But I want to make another point Mr. Railsback, if I may, that some comment—not in this body or from any member here—some comment has been raised, at least publicly by other Members of the Congress, about the propriety of the President disclosing to Mr. Ehrlichman and Mr. Haldeman, quite apart from the tenor of those conversations—and I don't want to comment on them. They are recorded in the transcripts. But it certainly was anticipated by me that he would inform them, if not of evidentiary detail, at least of the nature of the charges against them.

MR. RAILSBACK. Mr. Chairman, if I could just ask one other thing that I think is very relevant.

I wonder, and I really appreciate your explanation, which I think has been very helpful. I wonder if your answer would be the same in respect to having certain information turned over to him, turned over to somebody other than these two principals; in other words, like Mr. Kalmbach.

MR. PETERSEN. That, I think, would probably present—once again, if we are assuming it is grand jury information, and I don't think that—

MR. RAILSBACK. Well, assuming it is information that has been developed for or as part of a grand jury investigation.

Mr. PETERSEN. Well if it is information that is not grand jury information that is developed as a part of the investigation, which is disclosed to a putative defendant, then you come into what is always the ultimate question, the motive with which it is done. I mean almost anything that touches upon the administration of justice can constitute an obstruction of justice if it is corruptly done.

I point out to you the last catch-all clause of 1503 of title 18, which I probably can't quote, but in effect, reads that whoever in any manner corruptly endeavors to affect the due administration of justice. So the question of intent is the cardinal question with respect to the divulgence of information in an investigation.

The CHAIRMAN. I think this is a good time to recess. We will recess until 2 o'clock.

[Whereupon, at 12:35 p.m., the committee recessed to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

Mr. Doar, have you completed your examination?

Mr. DOAR. Yes sir.

Mr. CHAIRMAN. Mr. Jenner?

Mr. JENNER. Thank you, Mr. Chairman.

TESTIMONY OF HENRY PETERSEN—Resumed

Mr. JENNER. Mr. Petersen, during the April 16, 1973, meeting with the President, was there anyone else present during that meeting during the course of 1:30 to 3:25 p.m.?

Mr. PETERSEN. No, sir; nobody else was present for the meeting. We were interrupted on one occasion.

Mr. JENNER. And who interrupted you on one occasion?

Mr. PETERSEN. A person whose name I don't know, male, entered the room and put a document on the desk which was described as coming from Mr. Ehrlichman.

Mr. JENNER. Excuse me, Mr. Petersen. Who described it as coming from Mr. Ehrlichman?

Mr. PETERSEN. The individual who brought the document in the room.

Mr. JENNER. Was that a lady or gentleman?

Mr. PETERSEN. That was a male individual.

Mr. JENNER. And did that male individual, when he made that remark, was he speaking to the President?

Mr. PETERSEN. Yes, sir.

Mr. JENNER. What happened after that?

Mr. PETERSEN. Well, the President said, "That is the energy message. The affairs of Government must go on." And then he picked the document up and put it in a briefcase on the right side of the desk.

Mr. JENNER. And then what occurred after that?

Mr. PETERSEN. Well, he picked the document up again and indicated that this was the message that we were discussing—that is to say, the message that should be put out as a statement from the President as

to what should be done with what he was doing in connection with the Watergate investigation.

Mr. JENNER. And you are confident in your mind now, do you have a clear recollection, that the document about which the President spoke when the secretary brought it in and put it on his desk, which he then placed in the briefcase, and which he then removed from the briefcase, was the same document that the Secretary had brought in in the first instance?

Mr. PETERSEN. Yes, I believe that that document had been dictated by Mr. Ehrlichman as a statement for the President to put out in connection with the President's position on the development of the Watergate investigation. And key to that, or a key element of that was whether or not anything should be said in that message with respect to immunity. And of course, it was my recommendation that the message contain no information with respect to immunity, that I thought that any statement by the President on that subject was apt to be misconstrued, whatever his intent may have been.

Mr. JENNER. Mr. Petersen, why did you fix your eye on that paper from the time it reached the President's desk and he picked it up and put it in his briefcase and then removed it at a later point?

Mr. PETERSEN. Well, I suppose I was—I can't qualify as to procedure in the oval office, as an expert on procedure in the oval office in the White House. But first, you know, from the time the door opened, it struck me as unusual for somebody to interrupt the President in a meeting which he had requested.

Two, as soon as—since we were talking about the issuance of a statement which was relatively brief, I almost expected that what was being handed to him would be the statement that would be issued.

Thirdly, when that was identified as something from Mr. Ehrlichman, my attention simply riveted on it, because I really didn't think that Mr. Ehrlichman ought to be the one who was writing the statement in which a position was being taken with respect to immunity, since at that point, at least, he was a suspect.

Mr. JENNER. Did you reach any conclusion, Mr. Petersen, with respect to the President's having placed the document in his briefcase and then at a later point, removing it?

Mr. PETERSEN. Well, I thought that he had, he was simply reluctant for me to know that Mr. Ehrlichman had a hand in the drafting of the statement, since my position with respect to Mr. Ehrlichman's status was quite plain.

I have to say in all candor that if he had said, "Well, this is the statement I propose to put out and I have had Ehrlichman draft it, it does not make any difference because you and I are going to decide what is in it," I would not have thought that unusual. I did think it unusual that it had been identified as an energy statement.

Mr. JENNER. In the first instance?

Mr. PETERSEN. Yes, sir.

Mr. JENNER. Was Mr. Ziegler in or out of that office at any time, the oval office, when you were there with the President?

Mr. PETERSEN. My recollection is he came in at a later point and the President indicated that they were going to put out a statement.

Mr. JENNER. Do you recall whether or not there was any mention by the President, directly or indirectly, to the best of your recollection,

as to whether he had had a conversation with John Dean the previous evening?

Mr. PETERSEN. Well, I knew that he had had a conversation with John Dean the previous evening from the telephone calls of the night before. And there was some reference to that on the 16th.

Mr. JENNER. There was?

Mr. PETERSEN. And the President explained some that he had, Dean had been ill, apparently, that morning and he had suggested one or two versions of a form of resignation, as I recall. And that Dean had refused to sign them and had indicated that he would write his own. I guess the aftermath of that was a discussion that Dean should not be subject to, since he was a putative witness, to demands for his resignation or anything that could be considered reprisal until we had determined precisely what his status would be.

Mr. JENNER. Mr. Petersen, yesterday there was some testimony before the committee with respect to a red box. Did the existence or possible existence of a red box come to your attention at any time in connection with the break-in at the DNC headquarters?

Mr. PETERSEN. No, sir. To my knowledge, I have never heard of a red box.

Mr. JENNER. All right.

During your meeting with the President, was there, in discussing the matter of a possible—was there a discussion of the possible successor to Mr. Gray as head of the FBI?

Mr. PETERSEN. Pardon, sir? I'm not sure I got the gist of your question.

Mr. JENNER. Thank you. I will reframe it.

During the course of any of the meetings with the President about which you have testified this morning, was there any discussion with respect to a successor to Pat Gray as head of the FBI? He was acting head, I presume.

Mr. PETERSEN. There was the discussion that I referred to this morning, in which the President asked me if I would like to be head of the FBI. But I can't testify with conviction—

Mr. JENNER. If you have testified to that, don't repeat it. I was out of the room for about 10 minutes this morning.

Mr. PETERSEN. Yes, sir, I did testify to that this morning.

Mr. JENNER. And have you testified to the suggestion that was made with respect to Judge Byrne to be considered?

Mr. PETERSEN. No, I did not.

Mr. JENNER. Did that in fact occur?

Mr. PETERSEN. Mr. Jenner, I knew that I had recommended Judge Byrne to Mr. Kleindienst. Whether or not Judge Byrne's name came up in the conversation with the President as a potential director of the FBI, I can't be certain. If it did, I would have endorsed him.

Mr. JENNER. Yes, of course. But you never suggested it to the President or there was no discussion of Judge Byrne during any of these conversations you have testified about this morning, is that correct?

Mr. PETERSEN. Not that I recall.

Mr. JENNER. I have no further questions.

The CHAIRMAN. Mr. St. Clair.

Mr. St. CLAIR. Thank you, Mr. Chairman.

I didn't know, Mr. Petersen, that you knew Judge Byrne.

Mr. PETERSEN. I know Judge Byrne very well. Judge Byrne was one of the two U.S. attorneys I recommended to Mr. Mitchell when Mr. Mitchell took office.

Mr. ST. CLAIR. And you had submitted his name to Mr. Kliendienst as a possible head of the FBI?

Mr. PETERSEN. Sometime in March during the course of a U.S. attorneys' conference in California on a Friday evening, Mr. Kleindienst approached me about 6 o'clock in the evening and said that he was going down to San Clemente the next day and that the purpose was to make a recommendation with respect to the head of the FBI. He suggested that he was going to advance my name. I replied that I thought that that would be foolhardy, considering the nomination hearings of Pat Gray and that submission of my name to the Senate would simply raise that issue anew. I suggested he recommend Judge Byrne, who I thought highly of as a lawyer and as a judge and as a person of integrity. And I knew that since Judge Byrne had served as U.S. attorney approximately a year after the new administration came in, Mr. Kleindienst thought highly of him, he indicated that he would certainly advance Judge Byrne's name. He asked if he should communicate with Judge Byrne, and I told him that he should not.

Mr. ST. CLAIR. Who was this, Mr. Ehrlichman?

Mr. PETERSEN. No, this was Mr. Kleindienst at the U.S. attorneys' conference in Los Angeles in March of 1973.

Mr. ST. CLAIR. What was the status of Mr. Gray's nomination at that time? If you can recall?

Mr. PETERSEN. My recollection is that Mr. Gray's nomination was in, at least being held in abeyance. And that there was obvious consideration of another person being chosen for the job.

Mr. ST. CLAIR. Would it be fair to suggest that as a practical matter, it was not going—it was well recognized that he would not be confirmed?

Mr. PETERSEN. I don't know how much of that idea was abroad, but I think it was certainly recognized among the upper echelon of the Justice Department.

Mr. ST. CLAIR. Thank you.

And do you recall from your discussion with the President that it was apparent that he also felt the same way?

Mr. PETERSEN. I think that that was probably implicit in the conversation, but I don't think the President said anything explicit with respect to that.

[Material unrelated to testimony of witness deleted.]

Mr. ST. CLAIR. Just out of curiosity, when the President asked you about whether you would like it or not, I take it you interpreted that to be a sort of invitation or an offer?

Mr. PETERSEN. Recognizing that I might be charged with being presumptuous, I think the key phrase that the President used was that the person I have in mind has another assignment, and as soon as he completes that assignment, I propose to submit his name to the Senate, I suppose.

Mr. ST. CLAIR. I am more interested in the remark that you recall he made to you, "Would you like it?"

Mr. PETERSEN. That is correct. And that is all I am trying to say, Mr. St. Clair, is that since I was also on a sensitive assignment, I thought that that might very well be——

Mr. ST. CLAIR. You?

Mr. PETERSEN. Me.

Mr. ST. CLAIR. And I just wanted the record to be very clear. I mean that was the reason that I went back to that a second time.

And he disabused you of any such thought?

Mr. PETERSEN. He said "I was not offering you the job" and I was put in my place.

Mr. ST. CLAIR. Let's get on now, with more important things, if we can.

You first were called into this case on the basis of reporting to the President on the afternoon of April the 15th, as I understand it?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you met with the President alone on the afternoon of that Sunday?

Mr. PETERSEN. No, sir, Mr. Kleindienst was present.

Mr. ST. CLAIR. Mr. Kleindienst was present?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Was he present throughout your meeting?

Mr. PETERSEN. He was present all the time I was there. When we left, Mr. Kleindienst was called back for 2, 3, 5 minutes.

Mr. ST. CLAIR. I see. Do you know whether Mr. Kleindienst had been with the President earlier that afternoon?

Mr. PETERSEN. I know now. I didn't know then.

Mr. ST. CLAIR. Would you now know that Mr. Kleindienst had spent some time with the President, then, early in the afternoon of Sunday, April 15, and that you were there later on that same afternoon?

Mr. PETERSEN. I thought it was Sunday morning, but there was an earlier conversation that day with Mr. Kleindienst and the President, I know now.

Mr. ST. CLAIR. All right. On reflection, would that now tend to explain why the President seemed so calm to you when you broke this news to him?

Mr. PETERSEN. I think it might very well.

Mr. ST. CLAIR. Namely, that in all likelihood, perhaps Mr. Kleindienst had told him something about it earlier, is that right?

Mr. PETERSEN. This was the second exposure to the shock, yes.

Mr. ST. CLAIR. Now, did you learn at any time, either in the afternoon of April 15th or shortly thereafter, that Mr. Ehrlichman had been conducting an investigation for the President prior thereto?

Mr. PETERSEN. Mr. Nixon said that when John Dean was unable to write the report, which he had charged him with doing when he sent him up to Camp David, March 21, that he had asked Mr. Ehrlichman to look into the matter.

Mr. ST. CLAIR. And did you know that Mr. Ehrlichman had conferred on at least one occasion with the Attorney General on the subject matter?

Mr. PETERSEN. No sir, I did not.

Mr. ST. CLAIR. I see.

Well, did you learn in any course of that afternoon meeting that Mr. Ehrlichman had reported to the President, I think on April 14, regarding the results of his investigation?

Mr. PETERSEN. I have no recollection that I was told that.

Mr. ST. CLAIR. Now, as of the afternoon of April 15, you had concluded, I take it, that Mr. Ehrlichman and Mr. Haldeman should leave the White House?

Mr. PETERSEN. I had concluded, yes.

Mr. ST. CLAIR. And in fact, you recommended that to the President, did you not?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And in the course of that recommendation, you put it on a basis, really, of policy rather than on the basis of an existing prima facie case of criminality, isn't that right?

Mr. PETERSEN. There was a discussion whether or not there was a basis for conviction and that we drop down to a level of a prima facie case. I said we were very close to having a prima facie case on Mr. Haldeman being mindful that one witness can't make a prima facie case. I don't want to overstate the proposition.

Mr. ST. CLAIR. That would be Mr. Strachan in his case?

Mr. PETERSEN. That is right.

Mr. ST. CLAIR. Mr. Strachan hadn't yet testified, then?

Mr. PETERSEN. No.

Mr. ST. CLAIR. But you anticipated that he would?

Mr. PETERSEN. I anticipated, and of course, coupled with John Dean's information that he had reported to Mr. Haldeman, and one of the key factors that I pointed out to the President in the course of our discussion was at the very least, as a responsible official, Mr. Haldeman's failure to do something when that information was made known to him—that is, about the budget meeting, the meeting that took place in Mr. Mitchell's office, that it was because of concern on the part of the President.

Now, with respect to Mr. Ehrlichman, I had to confess that the information with respect to him was considerably less weighty, but nonetheless, embarrassing. And that was the foundation of my recommendation that it was imperative that the President take some drastic step and that that drastic step had to be the resignations of his principal lieutenants in favor of the status and prestige of the Presidency.

Mr. ST. CLAIR. Really, is it unfair to suggest that you felt that should be done at least as a matter of policy for the administration?

Mr. PETERSEN. Well, I thought certainly it was a matter, as I put it, of fitness to hold office, which was a real question.

Mr. ST. CLAIR. I see.

Mr. PETERSEN. But policy is a word I would not use there. That seems to me to be merits of judgment where you could go either way, and I felt clearly that there was only one way to go.

Mr. ST. CLAIR. Because you felt, based on that information, that they had not demonstrated a fitness to hold office, is that it?

Mr. PETERSEN. That is one way of putting it, but I thought that they were a direct embarrassment to the Presidency of the United States.

MR. ST. CLAIR. And did the President in any way indicate to you a reluctance to fire somebody based on charges without having substantial proof in support of them?

MR. PETERSEN. Yes sir, he did.

MR. ST. CLAIR. In fact, he said he was unprepared to do that based solely on Mr. Dean's testimony, was not he?

MR. PETERSEN. He indicated he was concerned with fairness and he indicated some concern that Dean was simply trying to save himself, yes, sir.

MR. ST. CLAIR. And didn't he say in so many words that he was not prepared to fire these two men solely on Dean's accusations? Or words to that effect?

MR. PETERSEN. I think that is a fair import of that.

MR. ST. CLAIR. All right.

Now, there came a time fairly early in your relationship in the course of this investigation where you advised the President that Mr. Dean was negotiating for immunity, is that not correct?

MR. PETERSEN. Yes, sir.

MR. ST. CLAIR. And you were anxious on behalf of the prosecution to conduct and complete those negotiations to their end, is that not right?

MR. PETERSEN. Yes, sir, that is correct.

MR. ST. CLAIR. And I think you told us early this morning—earlier this morning—that the President in any event was unwilling to fire Haldeman and Ehrlichman and retain Dean. Isn't that right?

MR. PETERSEN. I think that is correct, yes, sir.

MR. ST. CLAIR. And didn't you tell us this morning that you agreed with that?

MR. PETERSEN. I agreed that all should be treated alike, though I have to state that it was clear that the President didn't want to fire Haldeman and Ehrlichman, he did indicate some desire on April 16, at the very least to have Dean's resignation in hand, and, therefore, I was most anxious that Dean not be singled out as one of the putative defendants and have his resignation picked up when the other two were not. And, therefore, that all should be treated alike.

MR. ST. CLAIR. All should be treated alike, that is either all retained for a period of time or discharged at the same time?

MR. PETERSEN. That's correct. Yes, sir.

MR. ST. CLAIR. And you were, therefore, were you not reluctant to single out Mr. Dean by having him discharged forthwith, is that not correct?

MR. PETERSEN. Yes, sir.

MR. ST. CLAIR. And didn't you ask the President to hold off on firing Haldeman and Ehrlichman and Dean until you could complete the negotiations?

MR. PETERSEN. I wouldn't put it that way. I was agreeable to Mr. Ehrlichman and Mr. Haldeman remaining on if the condition was, that was the only condition on which Mr. Dean could stay on. Otherwise, it would seem like a reprisal directly against Mr. Dean. But, my firm position was that those noncooperating witnesses occupied a position quite different. In other words, I hesitate to put it this way, but it was, it was a concession I made rather than a recommendation that I made.

Mr. ST. CLAIR. Well, didn't you get the impression that based on your recommendation the President would have been willing to fire all three of them, but not willing to fire Haldeman and Ehrlichman and retain Dean?

Mr. PETERSEN. I think that one could say that, yes.

Mr. ST. CLAIR. And that you said well, under those circumstances let's hold off until we finish our discussions with Dean?

Mr. PETERSEN. I think that's correct.

Mr. ST. CLAIR. Isn't that right?

Mr. PETERSEN. Yes.

Mr. ST. CLAIR. And as a result of that request, is it not the fact that as of April 15 or 16 the President received from Haldeman, Ehrlichman and Dean written resignations which he held?

Mr. PETERSEN. I don't know that, Mr. St. Clair.

Mr. ST. CLAIR. Well, he told you that he at least obtained one from Ehrlichman or I mean from Dean, excuse me.

Mr. PETERSEN. No. He told me he had tried to get it from Dean. Dean didn't like it, the manner in which they were written, and undertook to write his own. Now, I don't know when indeed, that was submitted, if any, at the time prior to his formal resignation, or I guess he was fired, and I did not know when Mr. Ehrlichman or Mr. Haldeman submitted resignations, if, indeed, they did.

Mr. ST. CLAIR. Well, didn't the President say to you, sir, that Haldeman and Ehrlichman were ready to leave at any time, that they would do whatever the President said?

Mr. PETERSEN. He indicated that they would do whatever the President said.

Mr. ST. CLAIR. Including leaving the White House at a moment's notice, or words to that effect?

Mr. PETERSEN. I think that was clear.

Mr. ST. CLAIR. And isn't it a fact, sir, that you wanted a delay in getting rid of these people so that you could get all you could get out of Mr. Dean in the course of his immunity negotiations?

Mr. PETERSEN. I repeat that I consider that a concession I made. I hate to talk about concessions with the President of the United States, but I didn't have any doubt, Mr. St. Clair, when I went in there, that Ehrlichman and Haldeman were an embarrassment to the Presidency of the United States. So too, was John Dean, but John Dean, if you will excuse me was our embarrassment because he was going to be the witness.

Mr. ST. CLAIR. And they were sort of all tied together in one package, weren't they?

Mr. PETERSEN. To the extent that they were putative defendants, yes, sir.

Mr. ST. CLAIR. And you concluded that the President at least was reasonable in his belief that all ought to go at the same time?

Mr. PETERSEN. I didn't conclude that that was an unreasonable position. The President had never seen me before really, and I don't think that now that it was unreasonable for him to insist that he had some corroboration of what I was telling him before he removed them.

[Material unrelated to testimony of witness deleted.]

Mr. ST. CLAIR. Now, you and the President had a number of discussions on this question of immunity, did you not, for Dean?

Mr. PETERSEN. Yes, sir. Yes, sir.

Mr. ST. CLAIR. And it's fair to say that the President had expressed objections to that, did he not?

Mr. PETERSEN. I would say, Mr. St. Clair, the President had some reservations about the wisdom of the decision, some reservations about immunizing persons who might be described as principals, or at least putative principals. His comments were not unreasonable. They were the type of—they reflected the factors that go into the judgment as to whether immunity should be accorded; namely, the position of the person, whether he is a principal in a proceeding, whether or not he can be corroborated, the public perception of whether or not fairness is being done.

Mr. ST. CLAIR. He thought it would look kind of bad if the high White House official got off scott free, didn't he?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And in principle, you agreed with that, did you not?

Mr. PETERSEN. Yes, sir. Yes, sir.

Mr. ST. CLAIR. And at one point you said you were scared to death of it, or it would look bad as hell or something like that?

Mr. PETERSEN. That's right.

Mr. ST. CLAIR. But as a prosecutor you recognized that you had to make out a case against any putative defendant that was under investigation, isn't that right?

Mr. PETERSEN. Well, yes. But more than that. As a senior Government official in a case that had scandalous proportions to say the least, we certainly couldn't afford to turn away a prospective witness.

Mr. ST. CLAIR. And you got down to the point with the President where you said to him, Mr. President, you may be the President, but it's my responsibility to decide about whether to grant immunity, or words to that effect, did you not?

Mr. PETERSEN. In essence, yes, sir.

Mr. ST. CLAIR. And he conceded that that was so, didn't he?

Mr. PETERSEN. Yes, sir, he did.

Mr. ST. CLAIR. And you got to the point in the course of this 2 weeks, it's about a period of 2 weeks from April 15th until April the 30th that we are dealing with, is it not?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Then you got to a point during that period of time where it began to look like if you couldn't have Dean's testimony under immunity, you might not be able to make out a case against Haldeman and/or Ehrlichman, isn't that right?

Mr. PETERSEN. I don't know that we reached any finite judgment on that, Mr. St. Clair. We got to the point I think where we felt we might have to take Mr. Dean's testimony as a defendant who pled guilty as opposed to an immunized witness. But, I don't think we reached the point where we had closed the possibility of getting Dean's testimony.

Mr. ST. CLAIR. Well, do you recall an occasion in the latter part of April where the President said to you, in substance, well, if you have to grant him immunity, go ahead, but I sure don't want to be any blackmailer, or words to that effect?

Mr. PETERSEN. My recollection of that conversation was that Charlie Shaffer had indicated, Charlie Shaffer being Mr. Dean's counsel, that if we didn't immunize Mr. Dean he was going to try the administration. I think the President construed that as a threat and since while I know Mr. Shaffer, and I think highly of him as a practitioner, I think I indicated that I didn't think of it as a threat, that perhaps a promise or a prediction.

Well, the distinction is important because Mr. Shaffer is, indeed, an honorable counsel. And the President said there would be no blackmail here, or words to that effect.

Mr. ST. CLAIR. Well, did you not receive a clearance to grant immunity to Dean if you had to?

Mr. PETERSEN. I guess I really never thought about it that way, Mr. St. Clair, because I never thought the President had indicated anything other than I had authority to immunize Mr. Dean, if, in my judgment, it was appropriate to do so.

Mr. ST. CLAIR. Getting back to Mr. Shaffer's remarks, he had made similar remarks on more than one occasion during the course of your discussions on immunity for his client, Mr. Dean, had he not?

Mr. PETERSEN. I should say that I did not negotiate with Mr. Shaffer.

Mr. ST. CLAIR. Well, were such remarks reported to you?

Mr. PETERSEN. Yes.

Mr. ST. CLAIR. And you in turn reported some of them to the President?

Mr. PETERSEN. Yes. But, I also have to say that I have known Mr. Shaffer for a long time, and he is a bombastic.

Mr. ST. CLAIR. He is working for his client right?

Mr. PETERSEN. Yes, and he was a bombastic prosecutor, if you will.

Mr. ST. CLAIR. Well, in his bombast is it the fact that he also indicated he would try the administration on non-Watergate matters?

Mr. PETERSEN. The implication was he would bring out other matters not related to Watergate, yes, sir.

Mr. ST. CLAIR. During the course of negotiations with Mr. Dean, and up until the time that his resignation was accepted, which I believe was April 30, did you have any knowledge that Mr. Dean in any way implicated the President of the United States?

Mr. PETERSEN. No sir.

Mr. ST. CLAIR. Now, throughout all of, or most of April in the course of the negotiations it was never reported to you that Mr. Dean implicated the President of the United States, is that right?

Mr. PETERSEN. That's correct, sir. And as a matter of fact, there was a conversation with the President and I on this specific point. I may not be precise with the date. I think it was the 27th when the President called me over to the White House with respect to a report that had reached the press office of the White House from two reporters, Hersh of the New York Times and Woodward of the Washington Post, that the prosecutors had information involving the President. And the President asked me to check on that, and I did so.

I called Mr. Silbert from the telephone at the Cabinet Room, and Mr. Silbert informed me that they had no such information.

Mr. ST. CLAIR. You don't happen to have a copy of the President's submission before you, do you?

Mr. PETERSEN. No, sir, I do not.

Mr. ST. CLAIR. Mr. Chairman, may I hand a copy to him?

The CHAIRMAN. Of course.

Ms. HOLTZMAN. Mr. Chairman?

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I would object to any questioning of the witness from the Presidential transcripts, especially when the President's counsel has the best evidence from which he can question the witness. And I would object to any such questions, and I raise a point of order against it.

Mr. ST. CLAIR. Mr. Chairman, may I respond?

The CHAIRMAN. If you want to withdraw it, but I would have overruled the objection.

Mr. ST. CLAIR. I am not withdrawing it. I was only going to answer it.

The CHAIRMAN. You have identified as the President's edited transcript.

Mr. ST. CLAIR. Thank you.

By way of refreshment of your memory, sir, and directing your attention to page 1276, which is before you, is it?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Do you see in the third line from the top the President says: "All right, we have got the immunity problem resolved. Do it, Dean if you need to, but boy, I am telling you there ain't going to be any blackmail." Do you see that?

Mr. PETERSEN. That's correct.

Mr. ST. CLAIR. Does that refresh your recollection that the President said to you in substance if you get down to the point where you have to grant immunity to make out a case against Haldeman and/or Ehrlichman, go ahead and do it?

Mr. PETERSEN. That was always my impression, Mr. St. Clair.

Mr. ST. CLAIR. And that he in no way used the issue of immunity to protect Mr. Haldeman or Mr. Ehrlichman, is that right?

Mr. PETERSEN. I don't—I never considered that he did.

Mr. ST. CLAIR. All right. In fact, at one point he said to you during this 2-week period, in substance, I am not out to protect anybody, and you responded, "Mr. President, if I thought you were I would get up and walk out of the room," isn't that right?

Mr. PETERSEN. I don't know if I said it in those words, but there were words to that effect.

Mr. ST. CLAIR. Or words to that effect?

Mr. PETERSEN. Yes.

Mr. HUNGATE. Pardon me, Mr. Chairman.

The CHAIRMAN. Mr. Hungate.

Mr. HUNGATE. Following up the point of the member from New York, do we have a copy of the committee's transcripts on this same subject?

The CHAIRMAN. We don't. Will you kindly identify?

Mr. ST. CLAIR. April 27.

Mr. DOAR. We don't have any. These are the White House edited transcripts.

Mr. HUNGATE. We do not have that tape, Counsel?

Mr. DOAR. We do not have that tape. We subpoenaed that.

Mr. HUNTGATE. I would simply like to note, Mr. Chairman, I think the objection of the gentlewoman from New York is well taken.

Mr. LATTI. Mr. Chairman? Mr. Chairman? I would like to be heard on the objection.

The CHAIRMAN. There is no objection pending.

Mr. SARBANES. Mr. Chairman?

The CHAIRMAN. Mr. Sarbanes.

Mr. SARBANES. Could Counsel, if he is going to be quoting verbatim in his questions, identify the meeting and the transcript from which it is being done? I assume these are quotations which have been put forth from a meeting for which not even a transcript has been made public, is that correct?

Mr. ST. CLAIR. That is correct, yes, sir. And I only asked him if this refreshes his recollection, and as we know he can refresh his recollection from any source.

Do you recall, Sir, a conversation—

Mr. BROOKS. Pardon me Counsel, Mr. Chairman.

Mr. CHAIRMAN. Mr. Brooks.

Mr. BROOKS. Mr. Chairman, could I ask the Counsel if he has heard this tape? Have you listened to all of this tape?

Mr. ST. CLAIR. Mr. Chairman, the answer is not that I know of, sir,

Mr. BROOKS. What I don't understand, candidly is why we are utilizing a tape that we as a committee have not received. I don't mean to be difficult about it, but I would think that if we are going to use this tape in interrogating the witness we ought to have an opportunity to take a look at the tape. Have we requested the tape, Mr. Doar?

The CHAIRMAN. The tape has been requested.

Mr. BROOKS. Have we received it?

The CHAIRMAN. It is one of those that has been subpoenaed but has not been received.

Mr. DENNIS. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Counsel has already identified this as the edited transcript. And we know what this is. Now, it is that kind of evidence that is before us, which is not, in my judgment, the best evidence, but he has identified it as such.

Mr. DENNIS. Mr. Chairman?

The CHAIRMAN. Please proceed, Mr. St. Clair.

Mr. ST. CLAIR. Thank you, Mr. Chairman.

Mr. Petersen, do you recall a conversation with the President substantially as I have suggested?

Mr. PETERSEN. Yes, sir. I have just read the page, and I recall the conversation.

Mr. ST. CLAIR. Do you recall the President saying to you in substance, I am not trying to cover up for anybody, and you saying, if I thought you were, Mr. President, I would get up and walk out?

Mr. PETERSEN. Basically, yes, sir.

Mr. ST. CLAIR. And you meant that, didn't you?

Mr. PETERSEN. Well, I think I had to.

Mr. ST. CLAIR. And you never got up and walked out on the President, did you?

Mr. PETERSEN. No, sir.

Mr. ST. CLAIR. Thank you.

Now sir, ultimately you advised the President that the immunity negotiations had come to an end, did you not?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And can you fix the approximate date?

Mr. PETERSEN. Well, it was obviously before the 30th, and it was in a telephone conversation, and I told the President that I thought it was no longer appropriate to hold up on the resignation of John Dean, that we were going to have to try other tactics with respect to obtaining his testimony, and that now was the time for us to at least indicate to him that negotiations were at an impasse, and that if the President was holding up, in effect for us, that there was no longer any need to hold up with respect to Dean's resignation.

Mr. ST. CLAIR. And within a day or two then he accepted the resignations of Dean, Haldeman, and Erlichman as well as the then Attorney General, Mr. Kleindienst, did he not?

Mr. PETERSEN. I know of that only through the statement of the President on television. I did not know beforehand precisely what steps he was going to take.

Mr. ST. CLAIR. Well, he did not announce a resignation until you had said, well, the negotiations are over, isn't that right?

Mr. PETERSEN. That's right.

Mr. ST. CLAIR. And within a day or two of that he announced the resignations of Haldeman, Erlichman, and Dean, and also at that same time the Attorney General, did he not?

Mr. PETERSEN. That's correct.

Mr. ST. CLAIR. I don't know whether it would be appropriate or not, but could you tell us why the negotiations with Dean came to an end? What happened, if you know?

Mr. PETERSEN. Well, I don't think we felt that he was being forthcoming enough. I think that the more extended his proffer, the more the prosecutors became convinced the evidence could be come at other ways, that perhaps we did not have to deal off too important a personage as John Dean, and in any event, that whatever the ultimate outcome may be, and this is the point I shrink from, is that we were again not making an ultimate decision, but bringing a little bit more pressure to bear, I guess, on the potential witness, Mr. Dean.

Mr. ST. CLAIR. Now, sir, to go back, what was it that to your knowledge, well, "broke the case?" Was it Mr. Magruder's coming in and offering to change his testimony?

Mr. PETERSEN. Well, I think it was a combination of factors. It was one, Mr. Magruder coming in, and Mr. Dean coming in, and while the negotiations with Mr. Dean stumbled for a period of time, not only while we had the case, but after it was turned over to the Special Prosecutors, nevertheless, that was a fact of shattering import, coupled with Mr. Magruder's statement. And Mr. Magruder at or about the time he came in went about making his apologies, I am informed, to his erstwhile companions, and that was a factor which added to the momentum, tended to bring in Mr. LaRue. And Mr. LaRue indicated that in effect the jig was up. He was quite prepared to plead. All of these things developed, you know, in a matter of days in a very rapid fashion.

MR. ST. CLAIR. When did Dean first come to the U.S. attorney's office with information? Do you recall approximately?

MR. PETERSEN. Oh, around April 6th I believe.

MR. ST. CLAIR. But Mr. Silbert called you on the evening of the 14th?

MR. PETERSEN. Yes, sir.

MR. ST. CLAIR. And was that the day that Mr. Magruder came in and announced his desire to change his testimony?

MR. PETERSEN. The 14th, I think was a Saturday, and I think Mr. Magruder came in on the Friday.

MR. ST. CLAIR. The 13th?

MR. PETERSEN. Yes, sir.

MR. ST. CLAIR. And it was then the combination of those two people that led Mr. Silbert to place an urgent call to you?

MR. PETERSEN. Yes, sir.

MR. ST. CLAIR. Did you learn that the President had urged Mr. Dean late in March to go before a grand jury?

MR. PETERSEN. At a much later time I think.

MR. ST. CLAIR. And Dean's coming before the U.S. attorney was a contributing factor to breaking this case, as I understand your testimony?

MR. PETERSEN. Oh, I think so. Yes, sir.

MR. ST. CLAIR. And did you learn that before Mr. Dean came to the U.S. attorney he advised Mr. Magruder that he, Dean, was no longer going to support Magruder's testimony?

MR. PETERSEN. I don't think I knew that.

MR. ST. CLAIR. Have you learned that since?

MR. PETERSEN. No, I can't be certain of that.

MR. ST. CLAIR. Do you have—

MR. PETERSEN. We suspected there was collusion and, indeed, we questioned at one point whether there might be collusion between them. But, I don't think that I ever learned to the point where I could be positive about it.

MR. ST. CLAIR. Did you ever learn whether or not Dean's advice or discussions with Mr. Magruder contributed to Mr. Magruder's coming in and offering to change his testimony?

MR. PETERSEN. No, sir, I don't think I learned that.

MR. ST. CLAIR. Did you ever learn that the President had delivered a message to Mr. Magruder to purge himself and to go in and tell the truth?

MR. PETERSEN. No, sir. I don't think I learned that either.

MR. ST. CLAIR. I see. But, Mr. Magruder did come in, and you say you think on the 13th?

MR. PETERSEN. That's correct.

MR. ST. CLAIR. And that really then opened the door to the case, did it not?

MR. PETERSEN. I did learn, however, to the extent it may be—you asked with respect to the President that there had been some communication at or about that time between Mr. Magruder, and I think Mr. Ehrlichman.

MR. ST. CLAIR. And did you learn Mr. Ehrlichman was seeking to communicate with Magruder to tell him to go in and tell the truth?

MR. PETERSEN. No, sir, I didn't know that. I didn't know what the nature of that communication was.

Mr. ST. CLAIR. I see. But, it was the event that really opened up the case, first Dean coming in followed then by Magruder?

Mr. PETERSEN. That's correct. Yes, sir.

Mr. ST. CLAIR. Then, of course, the tenpins began to fall, right in.

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. If I may have just a moment, Mr. Chairman, to review my notes, perhaps I can shorten up my examination.

The CHAIRMAN. You go right ahead.

Mr. ST. CLAIR. Oh, yes, sir. With respect to the *Ellsberg* case, first of all, in March of 1973, what was the status of that case against Dr. Ellsberg, and I guess others?

Mr. PETERSEN. It was on trial.

Mr. ST. CLAIR. It was on trial?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. That was a criminal case?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you learned during the course of your investigation about the break-in in Ellsberg's psychiatrist's office, is that right?

Mr. PETERSEN. In April.

Mr. ST. CLAIR. In April?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Is that right?

Was the case still on trial?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And the President instructed you that that was a matter of national security and to stay away from it, is that not right?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. In the course of that conversation, did he speak to you to that effect in the frame of reference of effect on the case? Did he focus on the effect that this might have on the trial of the case at all?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. What did he say to you that indicated that?

Mr. PETERSEN. He said it would blow the *Ellsberg* case.

Mr. ST. CLAIR. I see. And you thought about the matter, did you not?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you said you entered on a period of sober reflection?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you consulted with your, what, appellate division people?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you also ascertained that no evidence had been obtained?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Is that right?

And—

Mr. PETERSEN. I knew that at the time I spoke to the President.

Mr. ST. CLAIR. I see. And did you discuss that with the President?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. I see. And they concluded that there was no legal obligation to make the disclosure in the light of the fact that no evidence was tainted by any such activity, is that right?

Mr. PETERSEN. That was their preliminary judgment, yes sir.

Mr. ST. CLAIR. And ultimately, however, you, the Attorney General, and the Solicitor General concluded as a matter of prudence that the disclosure should be made in any event, is that right?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. That is the word I believe you used?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you reflected on this for a matter of days, did you not?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you concluded that advice should be given to the President that the matter should be disclosed?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And as a result of that, the Attorney General called on the President?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And did you learn that the President readily agreed and permitted the disclosure?

Mr. PETERSEN. Mr. Kleindienst returned, told me that the President had agreed, and Mr. Kleindienst issued instructions for us to make the information available to the court and defense counsel in the *Ellsberg* case.

Mr. ST. CLAIR. I see.

Mr. MAYNE. Mr. Chairman?

The CHAIRMAN. Mr. Mayne.

Mr. MAYNE. A point of clarification.

Did the witness just say to the court and to defense counsel in the *Ellsberg* case? It seems to me to be inconsistent with his previous testimony.

Mr. PETERSEN. Well, I thought I had clarified that this morning. I will try again.

Mr. Kleindienst's instructions were to make the information available to the court and to defense counsel. Upon receipt of that instructions, those instructions, they were conveyed to Mr. Nissen, who was trial counsel. Mr. Nissen came back and said, quite properly, why do we have to go this far, fearful of the impact upon the case to which he had devoted so many weeks and months of preparation; isn't it sufficient that we disclose to the court? And we said, well, yes that is what we would ordinarily do.

At that point, I went back to Mr. Kleindienst and told him, you know, we think it suffices in discharge of our ethical responsibilities to disclose to the court only and abide by the court's ruling with respect to whether or not this information need be disclosed to defense counsel. And he said, if that is what you think should be done, you may do it that way. So that is the way we carried it out.

Ultimately, Judge Byrne did order the information turned over to defense counsel.

Mr. MAYNE. Thank you.

Thank you, Mr. Chairman.

Mr. ST. CLAIR. On another subject as I go through my notes very briefly, did you discuss with the President on at least one occasion your concern that public hearings before the Senate might affect the prosecution of any of these cases?

Mr. PETERSEN. I did indeed.

Mr. ST. CLAIR. And did you express that concern to the President?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And did you express that concern to others within the Department of Justice?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. How about—did you discuss it at all with counsel for any of the putative defendants?

Mr. PETERSEN. No, I don't think so.

Mr. ST. CLAIR. You believed, I take it, that undue publicity by reason of such a proceeding would have a risk of prejudicing the prosecution, is that right?

Mr. PETERSEN. Yes, sir. More than that, I thought it was our ethical responsibility to make the attempt whether or not the Senate agreed, to defer any hearings which might give rise to undue publicity.

Mr. ST. CLAIR. Would you think it improper on behalf—yes, Mr. Waldie would like to know the approximate date.

Mr. PETERSEN. Of—

Mr. ST. CLAIR. These discussions with the President.

Mr. PETERSEN. I don't recall the approximate date. They are reflected in the transcript of the proceedings. While I haven't read all of them, I know that that is in there.

Mr. ST. CLAIR. Sometime during the last 2 weeks in April?

Mr. PETERSEN. It was during the 2 weeks in April, yes sir.

Mr. ST. CLAIR. Based on your knowledge and experience, would it have been proper for counsel for the defendants to also consider making the same objection?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you mentioned the *Delaney* case. Is that a case involving a publicity arising out of a congressional investigation?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. With reference to the notebooks and other documents that were in what has been described as Hunt's safe, you told us that Mr. Bittman, on behalf of Hunt, had filed a motion to suppress. Do you recall that?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And in the course of that, you learned of an allegation that there were two notebooks that the FBI had not accounted for.

Mr. PETERSEN. His motion papers made that point, sir.

Mr. ST. CLAIR. Right. And as a result of that, my notes indicate you testified that Mr. Silbert met with Mr. Dean, Mr. Fielding, and Mr. Kehrli to find out what, if anything, happened to those notebooks.

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. Were you present during all or part of that?

Mr. PETERSEN. I think there were two meetings. There was a prior meeting that I was not present at. I was present at the second meeting on December 22, 1972.

Mr. ST. CLAIR. And were you present when Mr. Dean was interrogated concerning the contents of the safe in part, at least?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. You told us, I believe, that Mr. Dean said that the matter that had been given to Pat Gray was not Watergate related?

Mr. PETERSEN. That is right.

Mr. ST. CLAIR. Is that correct?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. And you also told us, and I want you to be sure of your memory on this point, that he said that the material given to Gray was not the notebooks.

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. He made it very clear to you, then, that the material that he had given to Gray was not any notebook?

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. Thank you.

Then you——

Mr. PETERSEN. Mr. St. Clair, you said any notebook.

Mr. ST. CLAIR. Were not the notebooks. Excuse me.

Mr. PETERSEN. There were two notebooks. It was not the two notebooks in question.

Mr. ST. CLAIR. All right. Can you fix the approximate time for us of this conversation?

Mr. PETERSEN. With Dean?

Mr. ST. CLAIR. Yes.

Mr. PETERSEN. Approximately 6, 6:30, 7 o'clock on December 22, 1972.

Mr. ST. CLAIR. In December of 1972?

Mr. PETERSEN. Yes sir, just prior to trial.

Mr. ST. CLAIR. When did Mr. Dean testify before the grand jury, do you know?

Mr. PETERSEN. After the case was taken from us, I believe.

Mr. ST. CLAIR. Do you have any information as to when that was?

Mr. PETERSEN. No, sir.

Mr. ST. CLAIR. No further questions, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you.

Mr. Brooks?

Mr. BROOKS. Mr. Chairman, I would like to ask Mr. Petersen this.

Since your memory was refreshed by the comments from an edited transcript of some tapes of conversations, I wonder, with that in mind, as Chief of the Criminal Division, if somebody's counsel had offered you an edited transcript of a tape in his possession, an original tape of the original conversations, would you have accepted that edited transcript as the best evidence available to him?

Mr. WIGGINS. Mr. Chairman, I object to the question as calling for a legal conclusion on the part of the witness.

Mr. BROOKS. I don't think it is leading.

Mr. Chairman, let me say, the question, if you will listen to it, let me read it and try to explain it, is asking for an opinion. If he were Chief of the Criminal Division, as he has been, would he accept an edited transcript as the best evidence when he knew that the counsel who was presenting same had a good, valid, authenticated tape of the original conversation, would he accept that as the best evidence?

Mr. WIGGINS. I repeat the objection.

Mr. ST. CLAIR. Mr. Chairman, may I join in the objection?

The CHAIRMAN. Yes, you may.

Mr. ST. CLAIR. May I state the basis for it?

The CHAIRMAN. State your basis.

Mr. ST. CLAIR. If the chairman please, the witness was asked to refresh his recollection. My understanding of the law is you can refresh your recollection from anything, including the back of an envelope.

The CHAIRMAN. That was why the Chair rules as the Chair did. The Chair understood that counsel was not attempting to submit that as evidence.

Mr. ST. CLAIR. Thank you, sir.

Mr. BROOKS. Mr. Chairman, that was not the question I asked the witness, either, if you will recall.

The CHAIRMAN. I think the Chair will overrule the objection.

The witness will answer the question.

Mr. PETERSEN. Would you mind restating the question?

Mr. BROOKS. Bless your heart.

If counsel presented to you an edited transcript of conversations of which he had an original tape, would you accept the edited transcript as the best evidence, all being in his possession?

Mr. PETERSEN. I am afraid I would not.

Mr. BROOKS. Thank you.

No further questions, Mr. Chairman.

The CHAIRMAN. Mr. Hutchinson?

Mr. HUTCHINSON. No questions, Mr. Chairman.

The CHAIRMAN. Mr. Kastenmeier.

Mr. KASTENMEIER. I just have one or two questions.

In this memorandum of meetings and conversations between April 15 and April 30, a considerable number, none existing before or after—I take it after April 30, 1973, you no longer had conversations by telephone or meetings with the President, is that right?

Mr. PETERSEN. I had one telephone conversation, I believe, and one meeting with the President after April 30, both in connection with the Agnew case.

Mr. KASTENMEIER. Thank you.

Earlier this morning, you indicated why you thought the President might be entitled to certain information and why it was appropriate in your view to communicate certain information to him. I am wondering—this is a rather subjective question, but did it occur to you that the President might have had an interest in the matter which might not necessarily be consistent with the pursuit of justice or the successful prosecution of the case? At any time during these 15 days you had conversations with him?

Mr. PETERSEN. Well, I think yes. I think that when you got as close as Mr. Ehrlichman and Mr. Haldeman, one had to consider that there was at least a remote possibility that a President, if only because of the political implications, might have a more than passing interest in events as they had developed. But I didn't—that was, so far as I was concerned, the unthinkable thought, not a possibility that I act on, not a reasonable basis for a judgment or a decision, because I had no evidence to suggest that the President was involved.

Mr. KASTENMEIER. But whether or not he was involved, could you not conclude, based on the information you had, that as far as im-

munization or attitudes toward your witness, Mr. Dean, as opposed to that of Mr. Ehrlichman or Mr. Haldeman, his interest and yours may not have been the same?

Mr. PETERSEN. Well, as I say, I recognized that as a possibility. But you can only indulge that possibility if you reach the conclusion that the President was, to some degree, corrupt, and I was not willing to do that in the absence of evidence. And therefore, I felt not only that, one, we should go and that he should be informed; but to fail to do so would have been, I thought, indefensible. I just don't see how anyone could, in my position, could not inform the President of these facts.

Mr. KASTENMEIER. In other words, you acted entirely in a consistent manner, assuming the President had no interest adverse to the interests of the Justice Department in the case, is that correct?

Mr. PETERSEN. That is correct.

Let me put it another way. I think that one has to treat public officials, in the absence of evidence to the contrary, as being people who are prepared to discharge their duties and responsibilities. I was prepared to do so and I was not prepared to conclude that the President would do anything less.

Mr. KASTENMEIER. I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. McClory.

Mr. McCLODY. Thank you, Mr. Chairman. I am just adjusting my timepiece here.

Mr. Petersen, you stated that the President told you, I guess it was in a telephone conversation, that he knew that Dean was up to his ears, referring to the beginning of the coverup. Did you ask him what he meant by that?

Mr. PETERSEN. No, I didn't ask him what he meant by that because I thought it was clear in the conversation—and I don't think it was in the telephone conversation. I think it was probably at our meeting on April 15 or thereabouts—that Dean had come to him on March 21 and he had told Dean to go up and write a report, to Camp David. And he said that Dean came back and was unable to do so, and he said, in effect—implicitly—on the basis of what you said I guess the reason he could not do so is because he was up to his ears.

Mr. McCLODY. And you knew, of course, what he had been telling the grand jury, too, didn't you?

Hadn't he been reporting to the grand jury up to that time also?

Didn't he come to the prosecutor on April 6?

Mr. PETERSEN. Thereabouts.

Mr. McCLODY. And so you knew from that source as well. But you didn't ask the President anything about what the President knew?

Mr. PETERSEN. No, let me go back a moment.

You see, on April 15, I told the President a thumbnail sketch of what we had learned from Dean and Magruder. I suggested that the President learn from Dean directly, as his superior, what Dean was telling the prosecutors so that the President could take whatever action, administrative action, was appropriate.

He did that. So thereafter, the conversations were implicit on the ground that we both heard the same information from Dean.

Mr. McCLODY. Well, let me ask a question on another subject. That is the, the President called you at one stage when you were telling

him about the, you were talking about the Ellsberg doctor's break-in and the President was very rough. He chewed you out and said, stay off of that, that is national security.

Now, why—you took him at his word, did you not?

Mr. PETERSEN. Yes, sir.

Mr. McCLODY. Why, then, did you feel impelled to have this information disclosed? I think there is the implication that somehow, this is Brady information that is impinging on the trials in Illinois or out in California. But at this point, you are conceding that this is a national security subject. That would not impinge on anybody's position in court, would it?

Mr. PETERSEN. Well, I don't think the positions are mutually exclusive. The fact that information might, in my judgment, not be disclosable because it was not Brady and the President says, don't disclose it because it is national security, are complementary positions.

Mr. McCLODY. Why do you want to disclose it?

Mr. PETERSEN. It is only when you conclude that, whether it is or is not Brady, it ought to be disclosed that the conflict between the national security interests, becomes apparent. It was on that basis that Mr. Kleindienst went back to the President and said, even if it is—I don't know what he said, I was not there. But I assume that he said, even if it's national security information, you have got this problem and you are going to have, in effect, a difficult problem if it is not disclosed and it becomes known. So therefore, you have to make the judgment. And that judgment was made to turn it over.

Now, in terms of turning over national security information, we get into another aspect. The procedure ordinarily is where we have to disclose information which is concededly national security information, because somehow or other, it impacts on the rights of a defendant, to disclose that in camera to the court under seal so it will not be disclosed.

Mr. McCLODY. Didn't you make an independent judgment that this was not national security information and—

Mr. PETERSEN. No, sir, I could not make that judgment. I didn't have that much information about it.

Mr. McCLODY. One more question. When you met Kleindienst out in California and you talked to him about Judge Byrne and Kleindienst was going down to San Clemente, you knew that he was going to be talking to the President about this subject of the prospect of appointing Judge Byrne as Director of the FBI?

Mr. PETERSEN. I suggested it.

Mr. McCLODY. Yes. And you know that the trial was going on at that same time, did you not?

Mr. PETERSEN. Yes, sir.

Mr. McCLODY. And did you think there was anything improper about discussing the appointment of Judge Byrne as Director of the FBI at the time that he was hearing the Ellsberg case?

Mr. PETERSEN. No. If I had, I would not have done it.

Mr. McCLODY. You knew that the White House was interested in the *Ellsberg* case and that there was a hostility toward Ellsberg.

Mr. PETERSEN. But you lose me, Mr. McCLODY. I don't see that my thinking that has anything to do with fairness. I don't see that Mr. Kleindienst's thinking it has anything to do with fairness, and I don't

think that the President's thinking it has anything to do with fairness or any combination of the lot. The problem arose when the matter was communicated to Judge Byrne.

Mr. BROOKS. I yield 2 minutes.

Mr. McCLORY. I thank the gentleman for yielding.

You knew that it would be communicated, then——

The CHAIRMAN. I would like to advise the gentleman from Illinois that Mr. Brooks has no time to yield.

Mr. McCLORY. All right. I yield back the balance of my time.

Mr. PETERSEN. May I add that Mr. Kleindienst had said, should I discuss this with Judge Byrne and I said, absolutely not. And he agreed with that. It was not——

The CHAIRMAN. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. Petersen, is the FBI the sole Government agency that has authority to wiretap?

Mr. PETERSEN. I am looking for the voice.

Mr. EDWARDS. Over here.

Is the FBI the sole Federal agency that has the authority to wiretap in the United States?

Mr. PETERSEN. Are we talking about internal—national security wiretaps?

Mr. EDWARDS. Yes.

Mr. PETERSEN. Yes, sir.

Mr. EDWARDS. All right. Now, are there certain rules that the FBI and the Department of Justice generally must comply with with regard to this information once it has been received from a wiretap?

Mr. PETERSEN. Yes, sir.

Mr. EDWARDS. What are those rules generally? What guidelines as to the use and dissemination?

Mr. PETERSEN. Well, ordinarily, information from a national security wiretap is used for intelligence purposes and not disseminated outside of the agency.

Mr. EDWARDS. Is it a violation of the law if there is an improper dissemination for reasons other than for which the wiretap was installed?

Mr. PETERSEN. Well, there certainly could be. For example, if a device was put in for national security purposes that was used to black-mail somebody, it certainly would be a violation of the law.

Mr. EDWARDS. Do you think it was a violation of the law when 1 of the 17 wiretaps was used by employees of the White House with regard to the Clifford, Clark Clifford contemplated Life article, where the information was disseminated to Mr. Colson so that a counter-article could be written and publicity prepared?

Mr. PETERSEN. You are asking me something about which I know nothing. I don't think I should answer.

Mr. EDWARDS. I think you could answer. The situation here is information from a wiretap authorized by the Attorney General. The information is disseminated to an employee of the White House and used for a political purpose; namely to counter an article being written by a political adversary, Clark Clifford, in Life magazine. Now, certainly, you can——

Mr. PETERSEN. I don't want to quarrel with your statement. All I am saying is I assume I am a fact witness and the conclusions are for you

to draw and that I have no knowledge about those facts. I know only that sometime in April, Mr. Ruckelshaus told me there was a rumor that there had been wiretaps on newsmen and I recommended that he conduct an investigation. That investigation was conducted, but the product went to the Special Prosecutor. So I don't feel that I ought to comment about something about which I don't know.

Mr. EDWARDS. But is it against the law to use wiretap information, duly authorized for a proper person by the Attorney General, for purposes otherwise than it has been authorized for, namely, a political purpose. Can you answer that hypothetically?

Mr. PETERSEN. I would assume there would be at least a tort—

Mr. WIGGINS. Would not the law be the best evidence of that?

Mr. EDWARDS. We have the expert right here, Mr. Wiggins. This is the head of the criminal Division of the Department of Justice.

Mr. PETERSEN. I could say beware of self-appointed experts. That does not make me an expert on everything. All I can say is the improper use of information otherwise legally acquired might otherwise be a tort. Whether it's a violation of criminal law, I'm not sure.

Mr. EDWARDS. Does the FBI, Mr. Petersen, have the authority to install a wiretap overseas or arrange for a wiretap overseas on a telephone?

Mr. PETERSEN. Well, the FBI does not operate overseas. To the extent that they have authority to arrange for, I suppose, in a liaison function with other law enforcement agencies, they might very well arrange for that depending on the law of the country that they were concerned with.

Mr. EDWARDS. Would that be authorized in U.S. law?

Mr. PETERSEN. That would not—we do not have authority to authorize or not authorize wiretaps in foreign countries. It is ordinarily a matter of foreign law.

Mr. EDWARDS. Well, what the FBI does overseas in addition to complying with foreign law, they must comply with the U.S. law.

Mr. PETERSEN. Oh, I'm not sure that that is so. For example, if in Canada the FBI liaison officer says, we have a defendant up here or a putative defendant who is involved in an heinous crime, can you place him under surveillance, and it is permissible for the Canadian authorities to utilize wiretaps, they may very well do that. And the product be made available to the Federal Bureau of Investigation. But that would not have to be cleared through us. That is a matter of authorization by the Canadian authorities.

Mr. EDWARDS. Does the Secret Service have authority to wiretap in the United States?

Mr. PETERSEN. Not in national security matters. Under title III of the Omnibus Crime Act, wiretapping authority may be requested by investigative agencies having jurisdiction over the violation if it is one of the enumerated violations. So the Secret Service could apply for a title III wiretap, as could any number of other investigative agencies in the criminal area.

But in the national security area, only the FBI.

Mr. EDWARDS. And it would require the approval of the Attorney General?

Mr. PETERSEN. Yes.

Mr. EDWARDS. But not court approval?

Mr. PETERSEN. Well, from the Secret Service, it would require approval of the Attorney General and our approval, since they do not have authority to put in national security wiretaps. But I meant wiretaps in criminal cases.

Mr. EDWARDS. Thank you, Mr. Petersen.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Smith.

Mr. SMITH. Mr. Petersen, to go back for a moment to the questions that Mr. McClory was asking you about your conversation with Attorney General Kleindienst and about the possibility of Judge Byrne being appointed a Director of the FBI, did I understand you to say that you thought it was all right for you to talk to the Attorney General about it and the Attorney General to talk to the President about it, but you said to the Attorney General that you thought it was absolutely improper that he should talk to Judge Byrne?

Mr. PETERSEN. I didn't say it was absolutely improper. He said, "Do you think I should talk to Matt Byrne about it," and I said, "No." And he said, "Yes, I guess you are right." And that was the end of the conversation.

Mr. SMITH. I will reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Hungate.

Mr. HUNGATE. Thank you, Mr. Chairman.

Mr. Petersen, I should like to resume the endeavor to refresh your recollection that was started earlier. You have the White House edited transcripts there, please.

Mr. PETERSEN. Yes, sir.

Mr. HUNGATE. And first cautioning I would like to direct your attention to page — let's see — 1106 in that book, it is one for which I understand we have no tape. I think counsel will correct me if I am incorrect.

This is an edited transcript. In those instances where we were fortunate enough likewise to have tapes, there were numerous discrepancies. "Can" should become "could," "did" became "didn't" and "justice" became "obstruction of justice." So you will be cautioned you may have said the glass is half empty and you may find you said the glass is half full.

On the page to which I refer, 1106, after discussing something about Magruder, he named Haldeman and Ehrlichman, it goes on, what about Magruder knew something, you expect him tomorrow?

PETERSEN. Well, I told them probably not today, but I guarantee you at least 12 hours' notice.

PRESIDENT. Can you give me that much?

PETERSEN. I will guarantee you that. I will hold it up to make certain you get it.

Does that square with your memory? What comment would you have about that?

Mr. PETERSEN. Yes, but my recollection is we were talking about what action should be taken with respect to Magruder and whether or not his resignation should be picked up.

Mr. HUNGATE. And you agreed that there be 12 hours' notice previous to any indictment being issued? Is that what that is?

Mr. PETERSEN. That is right.

Mr. HUNGATE. And in your experience in that position, have you had occasion to do that at other times?

Mr. PETERSEN. We would ordinarily do that as a matter of course to other Government officials or Senators or Congressmen if one of their employees was about to be indicted.

Mr. HUNGATE. I direct your attention to page 1111.

NIXON. You don't think you are going to indict sometime today?

PETERSEN. I will be glad to give you 12 hours notice. Nothing is going to happen today. I am certain. Even if we get an agreement today, you know I can still hold it off for a day.

NIXON. Yeah, you might hold it off even tomorrow, huh?

PETERSEN. Yes.

Does that square with your recollection, sir?

Mr. PETERSEN. Yes.

Mr. HUNGATE. And is that common with your experience?

Mr. PETERSEN. No, I can ordinarily fix within reasonable periods the time of indictment, as was here.

Mr. HUNGATE. Would you make an estimate, sir, how many times that has happened, let's say in the past year?

Mr. PETERSEN. I don't know.

Mr. HUNGATE. Would this happen once a year or once every month?

Mr. PETERSEN. Well, it usually happens—it just happened within the past week, as a matter of fact, in connection with a very celebrated indictment where the Attorney General wanted to know the timing of the indictment so that appropriate people in officialdom could be informed. It is just—it's not so much a question of holding up as fixing timing.

Mr. HUNGATE. In your experience, what would be the longest lead-time to be given, Mr. Petersen?

Mr. PETERSEN. I don't know. If you don't have a statute of limitation, it does not make any difference.

Mr. HUNGATE. A week?

Mr. PETERSEN. It depends on the convenience of the grand jury, which is probably the most difficult factor; the convenience of the judge, the convenience of the prosecutors.

Mr. HUNGATE. Pardon me. Within your experience, what would be the longest leadtime you have seen given?

Mr. PETERSEN. I don't know.

Mr. HUNGATE. A week? Would that be longer than you have ever personally experienced?

Mr. PETERSEN. I am just not prepared to fix any definite time. I can say that in some instances, we have fixed the timing of indictment in connection with administrative action before an agency. But I just can't—it is not that common.

Mr. HUNGATE. It is not that common?

Mr. PETERSEN. It is not that—well, hopefully, it is not that common because we don't have that many Government employees indicted.

Mr. HUNGATE. Well, one a year would be a bunch, then, or two?

Mr. PETERSEN. Well, I don't know where the numbers get us, but—I don't mean to be evasive, I just can't—I would be lying if I were definitive.

Mr. HUNGATE. I don't want to encourage that.

Now, page 1051 and page 1052, sir. We have no tape on that, either. This is no-tape day.

Ehrlichman says there,

Yes sir, and I think that the fourth point that you should cover with him is that if I am before that grand jury and I am asked about Dean's information within the grand jury, I will have to say that Dean told me it came from Petersen.

NIXON. Yeah.

EHRLICHMAN. And there is no point in your getting out and saying out there to the press, I am relying on Henry Petersen as my good right hand and then have him compromised at a later time.

NIXON. That is right.

I am referring to the statement that I will have to say that Dean told me it came from Petersen.

Mr. Petersen, were you feeding Dean grand jury information?

Mr. PETERSEN. No, I don't think so, but I was dealing with counsel to the President and I tried to give him responsive answers to questions, those questions that he might ask—

Mr. HUNGATE. Could you give us examples of information you gave him?

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUNGATE. Could he respond to that question?

Mr. PETERSEN. I would like to very much.

The CHAIRMAN. Please.

Mr. PETERSEN. I tried to give him ultimate fact. And by ultimate fact, X is going to be before the grand jury, Y is going to be before the grand jury. The reason for that, Dean told me, one, if you will excuse the expression in these august chambers, the President chews my ass out if I don't know what's going on. So as counsel to the President, I was trying to give him ultimate fact.

But I instinctively draw back if they reach down below what I consider to be the ultimate fact. It is one thing for counsel to the President to know that X, Y and Z are going to be before the grand jury and that may stir up a lot of publicity and the President might say what's going on. It's another thing for him to say, what's he going to testify and what have you. There he is not—I should point out I was not reading grand jury transcripts. I did not have access to it. It did not leave Silbert's office. And the basis of my information was oral reports from Silbert a couple of times a week.

Mr. HUNGATE. Thank you, sir.

The CHAIRMAN. Mr. Sandman.

Mr. SANDMAN. Mr. Petersen, I didn't grasp all of the testimony when you were talking about Pat Gray's destroying the papers that were turned over to him.

Do you know, apparently you have testified to it, but I didn't get it, who told Pat Gray to destroy those papers? Do you recall?

Mr. PETERSEN. Well, you see I am not sure I know the answer to that. The President always maintained that one, that Pat Gray was not told to destroy the documents. Gray maintained that he was told to destroy the documents, or at least that was the import of the conversation with Dean and Ehrlichman. So, I don't know.

Mr. SANDMAN. Was it Dean or Ehrlichman who told him to destroy the papers?

Mr. PETERSEN. Dean said that he brought the documents and Ehrlichman handed them to Gray. Gray says that the nature of the conversation was that he was to destroy them. But, I don't think he fixed it in the mouth of either one. Ehrlichman says he was not told to destroy them.

Mr. SANDMAN. Now, the other thing that I am not altogether clear on, I recall that you said, and correct me if I am wrong, that Dean told you that the contents of the two notebooks, the Hermes notebooks were not Watergate related, is that true?

Mr. PETERSEN. No, sir. No, sir. What we were trying to find out is where the two notebooks were.

Mr. SANDMAN. I understand.

Mr. PETERSEN. Dean, Kehrli, and Fielding said they didn't know, they had never seen those notebooks. Dean said, though, that other information that was not Watergate related was turned over to Pat Gray. That non-Watergate related information was, I subsequently learned, destroyed by Pat Gray.

Mr. SANDMAN. I see.

Mr. PETERSEN. The two Hermes notebooks we now know, and it was only recently that it came to my attention in connection with the newspaper articles, were in Dean's possession and he destroyed them sometime in January of 1973. He had them all of the time.

Mr. SANDMAN. Did he ever tell you that he knew what was in those notebooks?

Mr. PETERSEN. Dean?

Mr. SANDMAN. Yes, sir.

Mr. PETERSEN. No, sir. He was interrogated thoroughly about those notebooks and denied ever having seen them.

Mr. SANDMAN. Of course, that wasn't true, was it? Because he had them all of the time?

Mr. PETERSEN. Oh, he had them, but I don't know whether or not he knew what was in them.

Mr. SANDMAN. Okay. The important point is you know that he had them all of the time?

Mr. PETERSEN. Now know, yes, sir.

Mr. SANDMAN. Okay. This is the final question.

On April 27th of 1973, I understand you told the New York Times and the Washington Post that you had no evidence that implicated the President. Is that a true statement?

Mr. PETERSEN. When?

Mr. SANDMAN. April 27th, April 27th of 1973.

Mr. PETERSEN. No. No. I told the President that we had no information implicating the President. What transpired, the President called over to the White House and said "Hersh of the Times and Woodward of the Post have made an inquiry of Ziegler if they knew that the Prosecutors had information implicating the President, and the President said, is that so. and I said no, I didn't know of that, and I was certain that I would know. And I said I would check with Silbert and Glanzer and company. And he said, you would call here. I said yes. I called from the cabinet room. Silbert told me over the telephone we have no such information. I then told the President and he told Ziegler, that he, Ziegler, could tell the Times reporter and the Post reporter that that was false reporting.

Mr. SANDMAN. But, was it an accurate statement as of that time? I mean, was it accurate as of that time?

Mr. PETERSEN. Yes, it was accurate as of that time. We did not have any information bearing on the culpability of the President.

Mr. SANDMAN. All right. Last question.

Have you ever received any information which involves the President in this coverup?

Mr. PETERSEN. No, sir.

Mr. SANDMAN. Thank you.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Mr. Chairman, I would like to receive permission, unanimous consent if necessary, to allow Father Drinan, who has a time problem, to use his time in my place.

The CHAIRMAN. Without objection. Father Drinan.

Mr. DRINAN. Thank you, Mr. Conyers. Thank you, Mr. Chairman.

Mr. Petersen, in your Senate testimony, you indicated that way back there had been concessions made to certain individuals. For example, Mr. Stans was not before the grand jury. He was questioned under oath in your conference room. There was evidence of a strong call from Mr. Ehrlichman about this matter, and the same treatment was given, the same concession granted to Mr. Colson, and Mr. Kehrl, and Mr. Young because, as this came out in your testimony, this had been requested by John Dean.

I wonder if you can give us some feeling. Did you make those several concessions?

Mr. PETERSEN. Yes, sir.

Mr. DRINAN. Because you assumed the President wanted it or would want it?

Mr. PETERSEN. Well, I don't think I made that assumption. But, I do think it fair to say that I did make the assumption that people who occupy positions of responsibility and, therefore, are likely to be subjected to a barrage of publicity, should be given some consideration in connection with the taking of testimony.

Mr. DRINAN. Was that fair to the grand jury, because on other occasions the grand jury exercised their options of asking questions? And as I recall, they talked to Mr. Segretti, and something came out about another person involved.

So, in your judgment, the White House did exercise or did get this concession from you with regard to the four individuals that I have mentioned?

Mr. PETERSEN. No, I didn't say that, Mr. Drinan. I said that some concession was made to them in connection with the publicity.

Now, I think it is fair to say that that first concession was made, and that the decision was made by Mr. Kleindienst after a call to me from Mr. Ehrlichman, which got rather heated. The decision was made in connection with the procedures that had been previously involved and sanctioned by the Second Circuit in the Sweig case, where Congressman McCormack was interrogated in his office, without a reporter present, I might add.

Mr. DRINAN. But the cases are not totally analogous.

In any event—

Mr. PETERSEN. Well, I think, as a matter of fact, that the procedure we invoked was much more conducive to eliciting the truth than the procedure invoked in the *Sweig* case where the testimony was taken in the office of the witness, and with his nephew present, and not under oath; whereas the testimony of the witnesses in this case were taken without anyone present other than the prosecutors. They were taken under oath with a reporter present.

Mr. DRINAN. Well, Mr. Petersen, in a somewhat related area, in the Senate Watergate hearings you were asked by one of the Senators did you suspect that there was a coverup going on at the Watergate, and here is your answer:

The word I used to the prosecutors * * * nobody acts innocent. You couldn't translate that. * * * There were no records. Things were destroyed. They didn't act like innocent people. * * *¹

Now, you say nobody acts innocent and you say they didn't act like innocent people. Did you at that time, in your own mind, or your own words include in "nobody" and "they" the President?

Mr. PETERSEN. No, I don't think so.

Mr. DRINAN. You had spoken to the President.

Mr. PETERSEN. Pardon?

Mr. DRINAN. You had spoken to the President many times.

Mr. PETERSEN. No. No. Let's get the timing down, Father.

Mr. DRINAN. Well, if you didn't, sir, Mr. Petersen, more in point, if you didn't, if you were excluding in your mind the President, did you come to the conclusion that there was a conspiracy of silence to keep all of this information from the President, because you said, in your surroundings of all of these people you were talking to, nobody acts innocent, they don't act like innocent people?

Mr. PETERSEN. I suppose the confusion is attributable to the looseness of my language in "they." I think until we got a breakthrough I don't think there was any real suspicion of the White House personnel. The suspicions that we entertained ran to Mr. Mitchell, the upper echelon of that committee.

Now, I don't think we seriously entertained any suspicion about the involvement of the White House until much later than that.

Mr. DRINAN. You were talking about the White House, sir. I made a mistake that the assumption here is the coverup going on at the White House. That's in the question, and that you were talking about the alleged coverup at the White House, and those are your words, that nobody acts innocent, there were no records, things were destroyed, they didn't act like innocent people.

So, my simple question is to try to help us with the inquiry that we have here, why did your judgment apparently stop short of the President?

Mr. PETERSEN. Well, I think for a number of reasons.

Mr. DRINAN. That's what we would like to have. I would like to have.

Mr. PETERSEN. One of which, it seems to me, that people who purport to be not politically astute and leaders of Government ought to recognize the terrible implications of contaminating the Presidency, if you will. And for that reason, I would suspect that just in the exer-

¹ Hearings before the Select Committee on Presidential Campaign Activities, United States Senate, 9 SSC 3649.

cise of commonsense that they would seek to isolate the President from any participation in overt criminal activity, and that just strikes me as, even now, as the height of foolhardiness.

Well, I suppose——

Mr. DRINAN. Except that in no other area of all of the things that these people did together was the President kept uninformed.

Mr. PETERSEN. Well, you know——

Mr. ST. CLAIR. Well, Mr. Chairman, may I, may I make an objection to that statement? I hate to always object to Father Drinan, twice in 8 weeks, but that is a statement.

The CHAIRMAN. Due to the fact that you are objecting——

Mr. DRINAN. It is a question. I am asking Mr. Petersen that "Isn't it unusual, that in all the other areas of life, and we have heard Mr. Butterfield testify on that and the others, John Dean, that there was a concertive knowledge, action, and concertive knowledge and that in this area, all of these individuals could keep this knowledge from him?" I am asking Mr. Petersen, who knew the situation, far better than anybody here, what his judgment was as to why this unusual event or circumstance could occur.

Mr. ST. CLAIR. I press the objection.

Mr. DRINAN. I withdraw the question.

The CHAIRMAN. I will sustain——

Mr. DRINAN. Thank you very much. I yield back my time.

The CHAIRMAN. The time has expired.

Mr. Railsback.

Mr. RAILSBACK. Mr. Petersen, I hate to belabor the same point that Mr. Kastenmeier brought up again. I am wondering if you received any assurances on, if you will recall, on April 15, 16, or 17 from the President himself that he would not divulge what you told to him. Do you recall that?

Mr. PETERSEN. My recollection is that he said that, that what I told him would stay with him.

Mr. RAILSBACK. Let me just refer to these now famous edited transcripts. And I have here a version on April 16, which was a conversation from 1:39 to 3:25, and I will just try to recite.

The PRESIDENT. Now, the second, the second is this then (inaudible) that I think well, just to say we discussed it, so we got the record clear. Use the—— my now charge representing me in this thing. In other words you understand now, you are talking only to me.

HENRY PETERSEN. Yes, sir.

The PRESIDENT. And there is not going to be anybody else on the White House staff.

HENRY PETERSEN. Yes, sir.

The PRESIDENT. In other words, I am acting counsel and everything else. I don't want it from anybody else (inaudible). The only other person I could possibly think of would be Dick Moore, but he is a damn good guy.¹

And then you go on and finally it is where you mention to the President that somebody made reference to Dick Moore and the President says:

Well, then it's not proper to have him either, and he says, or the President says:

Well, then don't (inaudible)—let's just—better keep it with me then.

¹ "Submission of Recorded Presidential Conversations, April 30, 1974," p. 491.

Then in a telephone conversation later that night, April 16, from 8:58 to 9:14 p.m., the President says to you:

Well, I wanted to get you in bed earlier tonight than last night, and I want to get to bed too. Let me say first I just want to know if there are any developments I should know about, and second, that of course, as you know, anything you tell me, as I think I told you earlier, will not be passed on.

HENRY PETERSEN. I understand, Mr. President.

The PRESIDENT. Because I know the rules of the Grand Jury.¹

Do you remember a conversation like that or to that effect?

Mr. PETERSEN. Yes, I remember those assurances.

Mr. RAILSBACK. Let me ask you this, in the light of those assurances and not grand jury rule 6-E, but section 1503 of title 18 dealing with crimes and criminal procedure, let me just read this passage to you, which is a meeting that occurred on April 17, 1973, from 9:47 to 9:59. This is when he has a conversation with Ehrlichman, Haldeman, I believe. Let me just make sure of that. It is the President and Haldeman only.

The PRESIDENT. I mean it wasn't back then. It wouldn't indicate that we knew all about this, et cetera. Another thing, if you could get John and yourself to sit down, and do some hard thinking about what kind of strategy you are going to have with the money. You know what I mean?

HALDEMAN. Yeh.¹

And then another little bit, further on:

The PRESIDENT. Look, you've got to call Kalmbach, so I want to be sure. I want to try to find out what the hell he is going to say he told Kalmbach. What did Kalmbach say he told him? Did he say they wanted this money for support or—

HALDEMAN. I don't know. John has been talking to Kalmbach.

The PRESIDENT. Well, be sure that Kalmbach is at least aware of this, that LaRue has talked very freely. He is a brown man.¹

And then it goes on. This is information that was divulged to the President by you in respect to LaRue, apparently talking before I think it was in a debriefing before the U.S. Attorney.

Do you recall that at all? I mean, do you recall relating that business about LaRue to the President?

Mr. PETERSEN. Yes. Yes, sir.

Mr. RAILSBACK. Now in the light of this, you testified earlier this morning I think, and frankly I agree with what you said, that it is not improper for you—I don't think it is improper for you to divulge this to the President. What concerns me so much about this is that the President didn't seem to me to be revealing charges. He is stating specific information, and possibly even making suggestions to them.

Would you still have conveyed this information to the President if you knew that he was going to do what the transcripts suggest that he did? And these are his own transcripts.

Mr. PETERSEN. Well, as I said, I felt that it was improbable that the President would disclose charges to them, and to the extent he disclosed ultimate fact to them, those charges consisted of, why I would suppose that was in keeping with his responsibilities. Whether or not the conversations go with Mr. Haldeman or Mr. Ehrlichman, as the case may be, go beyond the bounds of propriety—

Mr. RAILSBACK. Is for us to decide.

¹ "Submissions of Recorded Presidential Conversations, April 30, 1974," p. 491.

Mr. PETERSEN. It is a question of inferences to be drawn from the circumstances of the conversation, yes, sir.

Mr. RAILSBACK. Let me just——

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONYERS.

Mr. CONYERS. Thank you, Mr. Chairman.

I have drawn some inferences myself that are different from Mr. Railsback, who doesn't think there is anything wrong with these discussions. But, didn't you feel that during the 15 days in April where you met over 27 times or talked with the President about these very sensitive matters, that there may have been some impropriety on the part of the President of the United States? At any point along these discussions and meetings?

Mr. PETERSEN. You mean, is your question, did I, in the period from April 15 to April 30 develop a suspicion about the President of the United States?

Mr. CONYERS. Some improprieties, yes, at any time?

Mr. PETERSEN. That's a very difficult question for me to answer, because I have said earlier, I have said again, that I was dissatisfied that the President didn't act more expeditiously. But, I don't think that it would be fair for me to conclude that was a matter which I could logically advance as a suspicion of wrongdoing.

Mr. CONYERS. Well, I can understand your treating this as a difficult question because it is for all of us. You are before this committee today in a position different from any that you have ever been before the Judiciary Committee.

This is not a legislative matter per se. It is an inquiry into whether or not articles will be recommended against the President of the United States in connection with our impeachment powers.

Mr. PETERSEN. But, Mr. Conyers, my point is, with all deference, that it does you little good for me to analyze the facts of the conversations with Mr. Haldeman and Mr. Ehrlichman and conclude that those circumstances would, in my judgment, amount to a violation of 1503, as Mr. Railsback was suggesting, because I am not trier of the fact.

Mr. CONYERS. Well, I certainly don't want you to do that. I am trying to elicit some information about your impression about conduct in terms of meetings and conversations that will help us resolve the major matter before us.

Mr. PETERSEN. Well, let me put it another way. I wish that I had been more explicit in my advice to the President of the United States as to how he should conduct himself with respect to the information that I gave him. I was not——

Mr. CONYERS. Well, I appreciate that.

Mr. PETERSEN. And he may have been misled by my negligence.

Mr. CONYERS. Now, as the head of the Criminal Division, do you feel now that you reflect upon these meetings, and phone conversations that you, in fact, compromised your position as head of the Criminal Division of the U.S. Attorney's Office?

Mr. PETERSEN. No, sir. I have thought long and hard about that. I made a difficult decision, but it is the type of decision that I make so often, and the decisions that I make are an assumption of risk decisions. If you reason——

Mr. CONYERS. Well, I can appreciate that.

Now, do you feel that Mr. Earl Silbert in any way compromised himself in his connection with you in those meetings and telephone conversation?

Mr. PETERSEN. No, sir; I do not.

Mr. CONYERS. I see. Well, then I don't have any further questions. If I have any time, I would like to reserve it, Mr. Chairman.

Mr. BROOKS. Mr. Chairman?

The CHAIRMAN. Has the gentleman got any time?

Mr. BROOKS. Mr. Chairman?

The CHAIRMAN. 35 seconds.

Mr. CONYERS. Well, then, I will reserve it.

Mr. BROOKS. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Mr. Brooks.

Mr. BROOKS. May I ask unanimous consent that my time I had reserved, the remaining 3½ minutes, and Mr. Kastenmeier and a minute and 3 seconds, be given to Mr. Railsback so he might continue his questions and finish out his trend of thought there?

The CHAIRMAN. Without objection. The gentleman has had the time reserved and I understand that Mr. Kastenmeier would also, who also reserved this time, be willing to yield it to Mr. Railsback.

Mr. RAILSBACK. Well, I am not sure that's going to stand me in good stead on this side, but I would like to just pursue, Mr. Petersen.

As I understood your testimony, your testimony is that perhaps there is a difference between the President divulging a general charge and the specific facts that make up the basis of the charge, is that correct?

Mr. PETERSEN. I am sorry.

Mr. RAILSBACK. I will hold off.

Mr. PETERSEN. My attention was not really focussed. Will you excuse me?

Mr. RAILSBACK. No, that's all right. Would you like to read the question, or do you want me to try to restate it?

The CHAIRMAN. Mr. Petersen, would you want to take a recess for 10 minutes before you start on your questions? I know you suggested to me—

Mr. PETERSEN. I would rather stay with Mr. Railsback, if it's agreeable with the rest of you. Go ahead.

Mr. RAILSBACK. Well, I appreciate that.

Mr. PETERSEN. He got me sweating and I just took my jacket off.

Mr. RAILSBACK. Let me try to restate the question. As I understand your testimony, you are stating in your opinion there would be a difference between the President revealing the charges that were made against Ehrlichman and Haldeman, and a difference between him revealing the substance and the facts that were the basis of those charges, is that correct?

Mr. PETERSEN. Well, that's a very difficult area. I think that if I told you your administrative aide was going to be indicted or was an impugned defendant, and these are the facts, and therefore, that you ought to take some—you might want to take some action, you would probably call him in, you would tell him the nature of the charges against him, but as you discussed those charges, you would have to give him at least sufficient information so he could intelligently re-

spond to you, so that you would know that you were acting in fairness. And when you get down to——

Mr. RAILSBACK. I take it you wouldn't suggest a meeting to take a certain positive course of action, though?

Mr. PETERSEN. Or discuss tactics, that's right.

Mr. RAILSBACK. Or discuss tactics.

Mr. PETERSEN. That's right.

Mr. RAILSBACK. And I think you said that its up to us to decide what the effect of that is, if we believe that is what happened?

Mr. PETERSEN. That is right.

Mr. RAILSBACK. Let me just ask you one other question about that.

There also is a difference, as I understand it, in the situation relative to Haldeman and Ehrlichman and somebody that wasn't on the White House staff; namely, Kalmbach, his situation in other words?

Mr. PETERSEN. Yes, sir.

Mr. RAILSBACK. Thank you.

The CHAIRMAN. Mr. Eilberg.

Mr. EILBERG. Mr. Chairman, thank you.

Mr. PETERSEN. I would like to pursue a little the line of questioning of Mr. Railsback. I am somewhat puzzled with the explanation you gave Mr. Railsback with regard to the President passing information on to members of his staff, and you say, you seem to think that it is all right in the sense that it is in keeping with his responsibilities.

Mr. EILBERG. Would you attempt to explain that again? That's not very clear to me.

Mr. PETERSEN. Well, if an individual employed in the executive branch is alleged to be in violation of law or a puntative defendant and is the subject of an investigation either by the Federal Bureau of Investigation or in a grand jury, we would ordinarily notify a senior responsible officer in the agency.

The next question that arises after notification is what action is appropriate for that senior officer to take, can administrative proceedings be initiated, should nothing be done, should the employee be suspended, should his resignation be affected or what have you.

Depending on the seriousness of the violation or its on-going nature, we may say, tell him nothing, because the offense is now going on. For example, narcotics transactions or something like that. And if anything is communicated, you are going to alert the defendant. We will not be able to catch him in the act.

If it is a completed offense, however, we might say, well, I think you ought to call him in and tell him that we are aware of this offense, it is being investigated, and that you are going to suspend him or give him an opportunity to resign. When you do that, you have to at least convey the ultimate facts to the man, just as a matter of elemental fairness.

How you convey those facts, of course, is a matter that requires some judgment, and ordinarily the administrative officer will say, well, what precisely what can we tell him, and we may very well outline or circumscribe the information that may be imported to the employee.

And that's all I was trying to convey.

Now, whether or not that conduct goes beyond the area of permissibility where it becomes—where it's that so much is conveyed that it

impacts on the investigation, and at least you have a mistake, whether or not that mistake is a violation of the law in terms of an attempt to obstruct justice becomes a matter of the intent of the parties, whether or not it is correctly done. And it is that that I was trying to convey.

Mr. EILBERG. Well, on April 17, according to the White House transcripts as reported in the Bantam book, you met with the President from 9:47 to 9:59 a.m. Following that the President told Haldeman that Liddy met with Dean on June 19, 1972, and that LaRue was talking very freely.

The President said: "Well, be sure Kalmbach is at least aware of this, that LaRue has talked freely, he is a broken man."

Now, in your opinion, do you think that these facts were appropriately revealed to Mr. Haldeman?

Mr. PETERSEN. Again, let me put my answer that I think the fact that it occurred, that it would be a factor that I would consider significant in any appraisal of the facts.

Mr. EILBERG. Significant in what way?

Mr. PETERSEN. As to whether or not the conduct was proper.

Mr. EILBERG. Well, I am asking you whether you think the conduct was proper in your opinion?

Mr. PETERSEN. Well, I think the President was poorly advised on the premises.

Mr. EILBERG. All right. And then the same day, from 2:46, that is on April 17 from 2:46 to 3:49, you met with the President—

Mr. BROOKS (presiding). The time of the gentleman has expired.

Mr. EILBERG. May I finish the question, Mr. Chairman?

Mr. BROOKS. The question?

Mr. EILBERG. Can I just finish it?

Mr. BROOKS. Yes.

Mr. EILBERG. When you met with the President, and one minute after you left he relayed that information to Ehrlichman, Haldeman and Ziegler. Do you recall that?

Mr. PETERSEN. No, I don't specifically recall that, because I haven't studied the transcript.

Mr. EILBERG. All right. Well, my time has expired.

Mr. BROOKS. Mr. Wiggins.

Mr. WIGGINS. Sometime prior to your appearance here today, Mr. Petersen, have you had occasion to read these famous transcripts of the Presidential conversations, all or any part of them?

Mr. PETERSEN. I have read some parts of them, yes, sir. I really haven't found them all that intriguing.

Mr. WIGGINS. Well, did you read those portions which related to your own conversations with the President?

Mr. PETERSEN. Only parts of them.

Mr. WIGGINS. Referring to those parts which you have, in fact, read prior to coming here, can you tell us whether or not the transcript reflects accurately what you said and what the President said, according to your best memory and recollection?

Mr. PETERSEN. Well, I think according to my best memory and recollection, to the extent that I have read them, the transcripts as reflected here, accord with my recollection. I should say—

Mr. WIGGINS. And here indicating that the witness was pointing to—

Mr. BROOKS. Mr. Sarbanes.

Mr. WIGGINS. Please finish the answer.

Mr. PETERSEN. And the witness was pointing to the submission of the Presidential transcripts to the Committee on the Judiciary.

Could I make just one qualification, Mr. Wiggins?

Mr. WIGGINS. Of course.

Mr. PETERSEN. In connection with the Ehrlichman trial, I had occasion to review the transcript of April 19, and that conversation, I think, with the President was something over an hour. And I thought that the transcript was truncated, but on the other hand I am not prepared to say that that was not a concise and accurate summary of the essence of the conversation.

Mr. WIGGINS. Are you prepared now to make any additions to the transcript before you?

Mr. PETERSEN. No, sir, I am not.

Mr. WIGGINS. Now, referring back to December 22, when you had this conversation about the contents of Mr. Hunt's safe, did John Dean tell you at that time that he had destroyed any documents from that safe?

Mr. PETERSEN. No sir, he did not.

Mr. WIGGINS. Did there come a time when you learned that he had in fact destroyed the documents from the safe?

Mr. PETERSEN. Yes, but very recently, through the local press.

Mr. WIGGINS. When was the first time you learned about it?

Mr. PETERSEN. When it was published in the local press within the past couple of months.

Mr. WIGGINS. When John Dean appeared before the special prosecutors on or about the 6th of April, did you have any information that he had disclosed to the prosecutors his destruction of the documents at that time?

Mr. PETERSEN. You mean when he appeared before Mr. Silbert and company on April 6, 19——

Mr. WIGGINS. Yes, that is what I meant.

Mr. PETERSEN. No, he did not.

Mr. WIGGINS. For how long was Mr. Dean interrogated by the U.S. attorneys at that time, so far as you know, over what period of time?

Mr. PETERSEN. From April 6?

Mr. WIGGINS. Yes, sir.

Mr. PETERSEN. I can't give you the number of hours, but it was——

Mr. WIGGINS. Well, it was several days, was it not?

Mr. PETERSEN. Yes, it was over a period of several days.

Mr. WIGGINS. Perhaps as long as several weeks?

Mr. PETERSEN. It started around April 6th and it concluded—I guess I really don't know when it concluded. At least the immunity phase concluded around the end of April and then there were negotiations with respect to plea.

Mr. WIGGINS. During that time, to your knowledge, did the U.S. attorneys get into the subject of the documents in Mr. Hunt's safe with Mr. Dean?

Mr. PETERSEN. No, but I knew that again subsequently. Mr. Silbert recently informed me that he, too, was taken by surprise on learning only a couple of months ago that Mr. Dean had indeed the now famous notebooks in his possession and that he, Mr. Dean, had destroyed them.

Mr. WIGGINS. Do I understand you to have said that it is your information that the U.S. attorneys did not discuss that episode with Mr. Dean during their interrogation of him?

Mr. PETERSEN. I am not certain whether they did or not, but if they did, he did not disclose it.

Mr. WIGGINS. All right. Of that fact, you are sure?

Mr. PETERSEN. That is correct.

Mr. WIGGINS. That is all, Mr. Chairman.

Mr. BROOKS [presiding]. The committee will recess for 10 minutes.
[Recess.]

Mr. BROOKS. Mr. Waldie.

Mr. WALDIE. Thank you, Mr. Chairman.

I am curious about that incident that took place on December 22 of 1972 when you were informed by Mr. Dean that there were materials that had been taken from Hunt's safe that had been given to the Director, Mr. Gray. When did you impart that information to your prosecutors?

When did you impart the information Mr. Dean conveyed to you relative to the materials that he had delivered to Gray to your prosecutors?

Mr. PETERSEN. I did not discuss it with them at all until, I guess, April 15th.

Mr. WALDIE. Actually, you did it when it came up during the interview—

Mr. PETERSEN. When Dean came—

Mr. WALDIE. When Dean was talking to the prosecutors and Dean told the prosecutors about it. Then you called Gray?

Mr. PETERSEN. No. No. Let me go over it again.

Mr. WALDIE. When did you tell the prosecutors? Just tell me this: Give me the date you first told the prosecutors about that conversation with Dean?

Mr. PETERSEN. April 15th or the night of April 14th, I guess it was, when they came to me with respect to the information.

Mr. WALDIE. Up to that point, you had not mentioned it to them?

Mr. PETERSEN. That is right.

Mr. WALDIE. Why did you mention it to them at that moment?

Mr. PETERSEN. I didn't mention it to them. They mentioned it to me.

Mr. WALDIE. They told you that Dean had informed them of their conversation?

Mr. PETERSEN. Had informed them, that is correct.

Mr. WALDIE. All right.

Now, Mr. Petersen, just so that you understand that the questions about your conduct in terms of whether it was strictly in accord with your responsibilities when you dealt with the President are not held only by those of us on this committee, you are aware that Mr. Dean, on March 21st, in response to a question from the President, who expressed amazement at the extent of cooperation you had extended, described you as a good soldier.

Mr. PETERSEN. I have also been described as a good Marine and a good employee of the Department of Justice.

Mr. WALDIE. And you were described by the President on April 16th—"I have got Petersen on a short leash."

Mr. PETERSEN. I can't be responsible for that, Mr. Waldie.

Mr. WALDIE. Of course you cannot. But can you tell me why you were so solicitous of the counsel for the President to June 17th? I was told you believed that he was entitled to certain courtesies because he was counsel for the President. At that point in time, June 17, 1972, it was your understanding you were dealing with a burglary of the Watergate confined to seven individuals and the White House had no involvement at all, did it?

Mr. PETERSEN. No.

Mr. WALDIE. Then why would the President's counsel be so interested and why would you deem it necessary to spend so much time cooperating with the President's counsel concerning a burglary of the Watergate in which the White House and the Committee for the Re-Election of the President, even, were not involved so far as you knew and were not even under suspicion, were they?

Mr. PETERSEN. I think it was certainly clear to me that there was an interest, and I would consider a valid, a reasonable, interest.

Mr. WALDIE. In the White House?

Mr. PETERSEN. On the part of the President with respect to.

Mr. WALDIE. Now, what was that interest as you understood it to be that warranted your cooperation with his counsel?

Mr. PETERSEN. With respect to the burglary of the headquarters of an opposition party.

Mr. WALDIE. And what was the interest of the President in that burglary?

Mr. PETERSEN. In an election year.

Mr. WALDIE. I know, but—

Mr. PETERSEN. Well, you are not letting me answer.

Mr. WALDIE. I am sorry. I apologize. Please answer. It is the 5-minute restriction that places that—

Mr. PETERSEN. I am sorry. I am trying to say that I recognize the fact of life that all Presidents have a function as head of their party, head of the Government, and the two functions are not usually easily separated. I could well understand an interest on the part of the President to be advised of what was going on. I could well understand the interest of the President in being informed if any potentially embarrassing information would develop which might impact upon either his office or his subordinates.

Mr. WALDIE. I want to—

Mr. BROOKS. The witness may complete the answer, of course.

Mr. PETERSEN. And I did not think it at all improper that he, as he did publicly, charge his counsel to develop, inquire for him as to whether anybody in the White House was involved. So he had not only a political interest but an administrative interest.

I was informed of that and I attempted to give responsive answers to inquiries that were presented to me by John Dean. And, Mr. Waldie, I do so today when the counsel to the President calls.

Mr. WALDIE. I believe that implicitly. I think you are a good soldier.

Mr. BROOKS. Mr. Dennis.

Mr. DENNIS. Thank you, Mr. Chairman.

Mr. Petersen, I think you testified earlier that the information which you transmitted to the President of the United States was not

in fact grand jury testimony, but rather, material and evidence which you and the Department of Justice had accumulated and acquired by your own investigations. Is that correct?

Mr. PETERSEN. That is right, but it is a treacherous area. At the time I was receiving information, it was not grand jury information, but that same information, maybe within a matter of a day, would become grand jury information.

Mr. DENNIS. I understand that. However, at the time you had it and at the time you transmitted it, it had not yet become so, is that true?

Mr. PETERSEN. Well, certainly at the time I transmitted it. Whether at the time—certainly at the time I got it. Whether or not it was at the time of transmittal it was grand jury information, I was not keeping that close a track of it.

Mr. DENNIS. OK. And you testified, however, that had it in fact been technically grand jury testimony, that in your legal opinion, you had a perfect right to transmit it to the President, is that right?

Mr. PETERSEN. Yes sir.

Mr. DENNIS. And I think you testified also that had it in fact been technically grand jury testimony, that in your legal opinion, it would be entirely proper, correct, and legal for the President in the discharge of his administrative function in determining whether or not to fire Haldeman and Ehrlichman, what he should do about them and so on, to inform them of the charges against them. Is that correct?

Mr. PETERSEN. Yes sir.

Mr. DENNIS. And I think you recognize and I believe had said that in the course of so informing him, some, at least, of the factual basis for the charges would almost inevitably and necessarily be discussed. Is that correct?

Mr. PETERSEN. Yes, sir.

Mr. DENNIS. And I believe you testified that you in fact anticipated that the President would do that very thing in respect of those gentlemen when you gave him the information?

Mr. PETERSEN. Yes, sir.

Mr. DENNIS. And I think that you have further said that even if we were presented with a case or if there were a case where the actual details of undoubted grand jury testimony were in fact transmitted to a putative defendant, which is not the case here, but that even in that situation, whether or not any crime had been committed would depend upon the intention with which the information was passed on, whether or not that was in fact a corrupt intention such as an intention to obstruct justice or to commit other illegal actions, is that correct?

Mr. PETERSEN. Yes, sir.

Mr. DENNIS. Shifting briefly to one other subject, can you describe the document which you said this man brought in during your conference in a general way?

Mr. PETERSEN. It was a document about this size—you mean on April 16?

Mr. DENNIS. Yes, when you were interrupted.

Mr. PETERSEN. It was a document about this size, it had a couple of paragraphs typed on it. It was a kind of draft. I don't recall that it had a heading.

Mr. DENNIS. A letter-sized piece of white paper?

Mr. PETERSEN. Yes, sir.

Mr. DENNIS. No letterhead that you recall?

Mr. PETERSEN. No.

Mr. DENNIS. No seal?

Mr. PETERSEN. I don't recall.

Mr. DENNIS. A couple of paragraphs or so of typewriting?

Mr. PETERSEN. That is right.

Mr. DENNIS. Did you read it at that time?

Mr. PETERSEN. No sir.

Mr. DENNIS. The President put it in his briefcase?

Mr. PETERSEN. That is right.

Mr. DENNIS. And later he took a white paper out, is that right?

Mr. PETERSEN. Within a matter of minutes.

Mr. DENNIS. And it too was a letter-sized piece of paper?

Mr. PETERSEN. That is right.

Mr. DENNIS. Of the same general appearance?

Mr. PETERSEN. That is right.

Mr. DENNIS. And you discussed its purported contents?

Mr. PETERSEN. Yes, sir.

Mr. DENNIS. And you made the conclusion and you still hold the judgment that it was the same piece of paper, but you don't know whether that is true or not, do you?

Mr. PETERSEN. I certainly believe that it was.

Mr. DENNIS. I am sure you do. But that is a belief rather than a certainty.

Mr. PETERSEN. If you mean beyond all possibility, I could not say beyond possibility that I was absolutely correct.

Mr. DENNIS. And you will agree with me that it is altogether possible that the President might have several white letterhead pieces of note paper in his briefcase, right?

Mr. PETERSEN. Yes.

Mr. DENNIS. With typewriting on it?

Mr. PETERSEN. Yes.

Mr. DENNIS. You agree with that?

Mr. PETERSEN. I am certain. I had no idea what he had in there. But it is possible.

Mr. DENNIS. Thank you, sir.

Mr. BROOKS. The time of the gentleman has expired.

Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman.

Mr. Peterson, I was somewhat puzzled by what I understood to be an earlier statement of yours to the effect that you did not have any role to play with reference to the *Ellsberg* case as head of the Criminal Division. Why was that not within your—

Mr. PETERSEN. The *Ellsberg* case was not in the Criminal Division when it developed. It was assigned to what was then the Internal Security Division and it continued the responsibility of the Internal Security Division until approximately the middle of March of 1973, when the Internal Security Division was abolished and the functions of the Internal Security Division were transferred to the Criminal Division. The people in charge that had been employees of the In-

ternal Security Division were transferred to the Criminal Division and continued to exercise responsibility for that case.

The Assistant Attorney General for the Internal Security Division, while he had no longer had a division to command, nonetheless continued to function with respect to that case and I assume no responsibility—at least no decisional responsibility—for it at all.

Mr. MANN. I see. Thank you.

Mr. Chairman, I ask unanimous consent to yield the balance of my time to Ms. Holtzman, to be used by her at the time she uses her regular time.

Mr. BROOKS. Without objection. Two and a half minutes will be yielded to Ms. Holtzman.

Mr. Fish?

Mr. FISH. Thank you, Mr. Chairman.

I wonder, Mr. Petersen, if I could take you back to December 22, 1972, and your testimony at the early part of today. This concerns your meeting and conversation with Mr. Dean.

Did you learn at that time that there were materials that had been—is this the first time you learned that materials had been destroyed that had been in the safe in the White House?

Mr. PETERSEN. No sir, I think I had best go back over that.

What John Dean told me at that point was that he had given information which he obtained from Hunt's safe to the Director of the FBI. In response to my question, he told me it was not Watergate-related information and that it was sensitive information. He was advised that if questioned about it by defense counsel in a motion to suppress, he would have to tell the truth. He said he would.

He was advised that he would have to produce that in all probability, since defense counsel would be unwilling to take his word for it, as I was, that it was not a Watergate-related matter.

It was clear, for Mr. Dean expressly stated, that that information was not the two notebooks, the Hermes notebook and the other notebook, that was referred to in the motion to suppress filed by Mr. Bittman, but was other information not Watergate-related.

Mr. FISH. Could I interrupt you at that point and ask you how you knew when Mr. Dean referred to materials delivered to Mr. Gray that the Hermes notebooks were not included.

Mr. PETERSEN. Well, Mr. Gray told me—I mean Mr. Dean told me they were not. He was specifically asked.

The whole purpose of the interrogation of Dean, Kehrli, and Fielding that afternoon was to determine if they had seen, or knew the whereabouts of these notebooks and over 2½ or 3 hours of interrogation, they maintained that they did not. And when he disclosed that he had turned over other material to Mr. Gray, the immediate question was whether or not this related to Watergate and was it these notebooks. And he said of course it was not.

Mr. FISH. So Mr. Dean was emphatic that the Hermes notebooks were not turned over to Mr. Gray and Mr. Gray was emphatic that nothing had been turned over to him whatsoever.

Mr. PETERSEN. Well, Mr. Gray not at that period of time. Mr. Gray was not interrogated by us until later.

Mr. FISH. All right, until later. So when you left that meeting of the December 22, the question of the whereabouts of the Hermes notebooks was still very much up in the air?

Mr. PETERSEN. That is right, in this context, that if John Dean was to be put on the stand by defense counsel as was the plan, in connection with the motion to suppress, he would have to testify that he had given information to Pat Gray and he in all probability would have to produce that information.

Mr. FISH. Thank you very much, Mr. Chairman.

Mr. BROOKS. Mr. Sarbanes?

Mr. FISH. Mr. Chairman, could I yield to Mr. Wiggins instead?

Mr. BROOKS. Yes.

Mr. WIGGINS. Mr. Petersen, your entire discussions with the President were more or less your reporting to the President, were they not?

Mr. PETERSEN. Yes, sir.

Mr. WIGGINS. That would be a fair characterization of your meeting with the President?

Mr. PETERSEN. Yes, sir.

Mr. WIGGINS. Were you acting at that time in your capacity as a prosecutor interrogating the President with respect to possible involvement?

Mr. PETERSEN. No, sir, I was not.

Mr. WIGGINS. Thank you.

Mr. PETERSEN. Mr. Chairman, may I take the opportunity to clarify the record with respect to a question Mr. Wiggins put to me earlier?

Mr. BROOKS. Without objection.

Mr. PETERSEN. You asked me about the, if in my recollection, the transcripts were accurate and I replied to the extent that I had read them, they were. My attention was directed in the recess to one particular transcript, and that is the telephone conversation of April 18, in which I have testified that the President raised the question of immunity, whether or not it had been previously accorded to John Dean. I examined that telephone conversation and that conversation is not reflected in that transcript. It is my recollection that those conversations did, the first and the second, did take place on the 18th of April.

Mr. WIGGINS. In that respect, then, it is incomplete?

Mr. BROOKS. The time of the gentleman has expired. I will allow the witness to complete the answer.

The gentleman from Maryland.

Mr. SARBANES. Mr. Petersen, when was the jurisdiction over the Watergate investigation taken away from the Criminal Division of which you were the head and placed in the Office of the Special Prosecutor?

Mr. PETERSEN. I can't give you a specific date. Sometime in May of 1973.

Mr. SARBANES. In late May of 1973?

Mr. PETERSEN. Yes, sir.

Mr. SARBANES. Between April 30 when you had a telephone conversation with the President and the date when it was taken from your jurisdiction, did you have any either meetings or telephone conversations with the President?

Mr. PETERSEN. No, sir.

Mr. SARBANES. Now, on April 19, you met with the President in the morning from 10:12 to 11:07 a.m. That was on Thursday, April 19.

Mr. PETERSEN. Yes, sir.

Mr. SARBANES. That evening, the President met with Mr. Wilson and Mr. Strickler, the attorneys for Mr. Haldeman and Mr. Ehrlichman, from 8:26 to 9:32 p.m. During this period, and from April—well, from April 19 to April 30, when you were in constant contact with the President, were you aware that he had met with the attorneys for Mr. Haldeman and Mr. Ehrlichman?

Mr. PETERSEN. Only from newspaper accounts. And published pictures of Mr. Wilson's big black Cadillac outside in the White House driveway.

Excuse me. The President did tell me that he had met with Mr. Wilson and asked me what I thought about him.

Mr. SARBANES. When did he tell you that?

Mr. PETERSEN. I don't recall, but he did—during that period of time. I assume right after he met with him.

Mr. SARBANES. And you are referring to—

Mr. PETERSEN. He, Wilson, was representing Haldeman and Ehrlichman.

Mr. SARBANES. And you are referring to this meeting on the 19th?

Mr. PETERSEN. I don't know whether I am referring to that or not. The President—

Mr. SARBANES. Well, on April 25, you talked with the President by telephone in the morning from 8:56 to 9:01 a.m. and immediately thereafter, from 9:25 to 10:45 a.m., the President met with Mr. Wilson and Mr. Strickler again. Were you aware that that was going to take place?

Mr. PETERSEN. I was not aware of the comings and goings.

Mr. SARBANES. These telephone calls on the memoranda of your meetings and conversations between yourself and the President do I understand from your earlier testimony that the calls were from the President to you in most instances rather than from you to the President? In other words, did I understand you to say that the call would come to you from the President, rather than being placed by you to the President?

Mr. PETERSEN. I think the telephone records probably reflect that, but my recollection is that they were mostly calls from the President to me.

Mr. SARBANES. And that is over this period of April 15 to April 30.

When the President called you, disturbed about, that Dean had been granted immunity, did he indicate to you how he had heard that or knew that?

Mr. PETERSEN. No, I don't think that he did.

Well, I guess he did implicitly indicate that he had learned that from his conversations with Dean on Sunday evening, April 15.

Mr. SARBANES. I see. Now, during the period April 18 to 25, when you reflected and finally went to Attorney General Kleindienst and then back to the President with respect to reporting the Ellsberg break-in, you said you met with some of your aides to discuss the matter.

Mr. PETERSEN. Yes, sir.

Mr. SARBANES. Did that take place, did those meeting and discussions take place in the day or following the 18th when you learned about it or over that whole period of time?

Mr. PETERSEN. Well, now, the first conversations were with Mr. Silbert and Mr. Maroney. They were on the 18th, I guess. Then, you know, I just was in soulful communion with myself until on or about the 25th, when I put the hypothetical to the chief of my appellate section. And about that time, I went up to Mr. Kleindienst.

Mr. SARBANES. In other words, these consultations that you were talking about having, I think when Mr. —

Mr. PETERSEN. No.

Mr. SARBANES. Well, it was with the chief of the appellate section and somebody else you mentioned.

Mr. PETERSEN. Mr. Maroney.

Mr. SARBANES. In this morning's testimony. Did that take place at the end of the conversation or before?

Mr. PETERSEN. No, the conversation with Mr. Maroney took place at or about the time the information was conveyed to me by Mr. Silbert. And he in turn was in touch with the people who were familiar with the facts of the case. And when he indicated to me that he had new information, we discussed the question of whether or not the information was producible and he indicated that he thought it was not operating material.

I tended to share that opinion, but as I thought about the problem, I thereafter put it in terms of a hypothetical to the chief of the appellate section, who indicated that, well, it probably was not, but it was too close a line to draw and if it were a major case, why, he would be in favor of producing. When I discussed it with Mr. Kleindienst, I presented both of those points of view and indicated that on balance, I thought we should produce.

He then put the question in terms of a hypothetical to the Solicitor General, who also advised him that he thought the information should be produced. And on that basis, why, he agreed to go back to the President.

Mr. BROOKS. The time of the gentleman has expired.

Mr. MAYNE?

Mr. MAYNE. I have no questions, Mr. Chairman. Thank you.

Mr. BROOKS. Mr. Seiberling.

Mr. SEIBERLING. Thank you, Mr. Chairman.

Mr. Petersen, in April 1974, did the President tell you that he was going to divulge to Mr. Haldeman and Mr. Ehrlichman all the information that you were giving him or would give him?

Mr. PETERSEN. I assure you mean April of 1973?

Mr. SEIBERLING. April 1973, yes.

Mr. PETERSEN. He did not.

Mr. SEIBERLING. Did the President give you any assurance or any impression that he would not give such information to other parties?

Mr. PETERSEN. Yes, I think the transcripts reflect that he told me the information was to stay with me.

Mr. SEIBERLING. Now, if you had believed at the time that you had that conversation with him that he was going to divulge to Mr. Haldeman and Mr. Ehrlichman all the information that you gave him in April, would you have done anything differently than you did?

Mr. PETERSEN. Well, I certainly would have been more explicit in my advice to him as to what his obligations were with respect to that information.

Mr. SEIBERLING. Going to a different, a slightly different subject.

Mr. RAILSBACK. Would the gentleman yield?

Mr. SEIBERLING. Yes, I yield.

Mr. RAILSBACK. I can understand why Mr. Petersen feels badly he had not been more explicit to him or warned him, except for the fact that the President twice told you he would not divulge.

Mr. SEIBERLING. Well, I am not at all critical of Mr. Petersen. I think that he handled himself quite properly and I am just trying to bring out the extent to which, had he known what was going to happen with the information, he would have taken a different approach. And he has indicated that he would. I think that would also be proper.

Now —

Mr. PETERSEN. That is a very sensitive area of negotiation in any investigation where the information is conveyed to a superior with respect to an underling. Almost every government official that I have encountered needs advice in that area.

Mr. SEIBERLING. Well, I don't mean to imply that you didn't give him enough information.

Mr. PETERSEN. I am sure I did do in that instance.

Mr. SEIBERLING. The President of the United States certainly should be in a position to know what is the proper thing to do.

Now, I notice that when you read us from your notes, you had a couple of other sheets of notes with you. Did they relate to anything that is the subject of this investigation?

Mr. PETERSEN. Yes, they related to some additional facts, but they are items of information that were not encompassed in what I thought I had transmitted to the President on 3 days in question.

Mr. SEIBERLING. Well, do you feel that we should also be aware of what was in those notes?

Mr. PETERSEN. I have no objection, no objection, except that I could not be explicit with respect to the time period.

Mr. SEIBERLING. Well, I don't want to ask you about anything that you feel you should not divulge.

Mr. PETERSEN. The only limitations on divulgence are on fair trial for the defendants, which —

Mr. SEIBERLING. Well, if you would rather not or think it would not be appropriate, why, that is up to you.

Mr. PETERSEN. These notes refer to the—well, they are an elaboration of an item of information which I had previously alluded to in those other notes. That is, the \$350,000 indicated that Haldeman said send it back, get a receipt, let them take care of expenses over there—meaning over at the Committee to Re-elect the President. And he goes into evidentiary detail with respect to the ultimate fact which I presented to you in connection with the other notes.

Mr. SEIBERLING. And these represent information that you gave to the President himself? Or did you use them in giving information to the President?

Mr. PETERSEN. I can't be certain, because these two pages are not identified as such and that is the reason I didn't; whereas the others

were identified as by me over a 3-day period and numbered. These are not.

Mr. SEIBERLING. Well, if you can't identify them as having been, containing information that you gave to the President, I don't suppose they are of any use. But I will leave it up to Mr. Jenner as to whether he thinks that we should —

Mr. PETERSON. I think Mr. Jenner has a copy of all of it, but I can identify only that first six pages as being information that I gave to the President.

Mr. SEIBERLING. Thank you. I have no further questions.

Mr. BROOKS. The gentleman's time has expired.

Mr. HOGAN.

Mr. HOGAN. Thank you, Mr. Chairman.

During the testimony this morning, information was brought out about the meeting between Mr. Petersen and the President on April 19, at which time the discussion of the FBI directorship came up. I would like to ask unanimous consent at this time to have inserted in the record a letter which I directed to the President on April 6, 1973, before this meeting, strongly recommending Mr. Petersen for the directorship of the FBI.

Mr. BROOKS. Without objection.

[The above referred to letter follows:]

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 6, 1973.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: In view of your withdrawal of the nomination of L. Patrick Gray to be Director of the Federal Bureau of Investigation, I would like to take this occasion to give the strongest endorsement possible to Mr. Henry Petersen, now serving as Assistant Attorney General, Criminal Division, Department of Justice.

I have known Henry Petersen for 28 years. He is a bright, dedicated public servant who has devoted his entire life to law enforcement. From his days as a clerical employee in the FBI while in law school to his appointment last year as Assistant Attorney General, his career has been marked by the highest competence and devotion to duty. In 1966 when I was conducting an investigation of corruption in Prince George's County, Maryland, I furnished information to Mr. Petersen and his expert handling of the cases involved culminated in convictions of the individuals involved. He has been personally responsible for a large measure of credit for the success of the Federal Government's war on organized crime.

While I believe he is a registered Democrat, he has never had any involvement whatsoever in politics and is a career public servant in the highest sense of the term.

As a former FBI Agent myself, I know how important it is to have the right man serving as its Director. I know of no man in the Country who is better qualified for that position than Henry Petersen.

Sincerely,

LAWRENCE J. HOGAN,
Member of Congress.

Mr. HOGAN. I have no questions, Mr. Chairman. I yield back the balance of my time.

Mr. BROOKS. Mr. Danielson.

Mr. DANIELSON. Directing your attention to the motion to suppress certain evidence filed by Mr. Bittman, I believe on behalf of Mr.

Hunt, did the motion papers contain reference to the Hermes notebooks and the pop-up notebook?

Mr. PETERSEN. Yes sir.

Mr. DANIELSON. It is my recollection that you discussed that motion with Mr. Dean in late December of 1972?

Mr. PETERSEN. That is correct.

Mr. DANIELSON. Did you ever, did you or anyone ever question Mr. Dean as to the specific items of the Hermes notebook?

Mr. PETERSEN. Specific —

Mr. DANIELSON. The Hermes notebooks.

Mr. PETERSEN. The entire interrogation on the afternoon of December 22 was directed to whether or not Mr. Dean, Mr. Kehrli, or Mr. Fielding had ever seen, heard of, knew of, had any information whatsoever with respect to those Hermes notebooks. That information was recorded by a court reporter and it is all in written form and was turned over to the Special Prosecutor. And without doubt, every one of them had indicated that he had no knowledge whatsoever.

Mr. DANIELSON. In other words, he disclaimed any knowledge at that time.

Mr. PETERSEN. Disclaimed any knowledge at all.

Mr. DANIELSON. Later on, when the plea bargaining matured, you simply abandoned—that motion was simply abandoned?

Mr. PETERSEN. That is correct.

Mr. DANIELSON. The only other point I have is as head of the Criminal Division, it is my understanding that the jurisdiction to investigate violations of laws of the United States is vested in the Department of Justice, which exercises it through the FBI, except in those cases where by law, that jurisdiction is given to some other agency, such as Secret Service having jurisdiction over counterfeiting, postal inspectors over mail violations, customs, and the like. But the general jurisdiction is in the Department of Justice, which exercises it through FBI. Is that correct?

Mr. PETERSEN. All residual jurisdiction with respect to criminal violations is in the Attorney General and to the extent that it is delegated, to the Federal Bureau of Investigations.

Mr. DANIELSON. It is in the Attorney General.

Mr. PETERSEN. Yes sir.

Mr. DANIELSON. Generally speaking, he exercises it through the FBI?

Mr. PETERSEN. Yes sir.

Mr. DANIELSON. That is criminal jurisdiction. As to internal security investigations within the United States, that is likewise in the Department of Justice and the FBI, is it not?

Mr. PETERSEN. Yes sir.

Mr. DANIELSON. I am distinguishing from the CIA, which as I understand, is outside of the United States?

Mr. PETERSEN. Yes, sir.

Mr. DANIELSON. Then under that residual jurisdiction grant, there would be no area of violations of Federal criminal laws which would not be awarded by law to one agency or another, is that not true?

Mr. PETERSEN. If there is any vacuum, it is the responsibility of the Justice Department.

Mr. DANIELSON. Well, then, there must not be a vacuum?

Mr. PETERSEN. That is—there cannot be. If it is not otherwise assigned, it is the responsibility of the Justice Department.

Mr. DANIELSON. It is my recollection that that jurisdiction is rather zealously guarded, too, by the different agencies.

Mr. PETERSEN. Yes sir.

Mr. DANIELSON. I will reserve the balance of my time.

Mr. BROOKS. Mr. Cohen is recognized and the gentleman from Virginia, Mr. Butler, had asked that his time be yielded to Mr. Cohen.

The gentleman is recognized for his time and Mr. Butler's.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Petersen, in talking to—I believe you stated this morning that Dean, in talking to prosecutors about immunity around April 16, you say Dean in talking to prosecutors—do you mean his attorney when you say “Dean”?

Mr. PETERSEN. Sometimes Dean and sometimes his lawyer.

Mr. COHEN. You mean Dean dealt directly with the prosecutor?

Mr. PETERSEN. Basically it was his lawyer, but there were occasions when Dean was talking to them, too.

Mr. COHEN. About this subject?

Mr. PETERSEN. Yes sir.

Mr. COHEN. I think you stated that you felt you had an obligation to disclose all of the information that you were receiving relative to Dean and Magruder and others to the President, I assume because he was chief law enforcement officer, is that correct?

Mr. PETERSEN. Well, I think all information other than grand jury information. Yes sir.

Mr. COHEN. Because he is chief law enforcement officer?

Mr. PETERSEN. Well, he is head of state.

Mr. COHEN. You wouldn't call him chief law enforcement officer?

Mr. PETERSEN. I would never call the Chief Executive of the United States the chief law enforcement officer. The phrase has developed some currency only in the current day.

Mr. COHEN. Well, tell us in your opinion whether he has the ultimate responsibility for the enforcement of the laws?

Mr. PETERSEN. That is right. But I think we use the term ambivalently when we talk of him as the chief law enforcement officer.

Mr. COHEN. Okay. It is higher than that?

Mr. PETERSEN. Yes sir.

Mr. COHEN. What I am really inquiring about is, as the head of state, is it your opinion that there is a reciprocal obligation on the part of the President to you as chief prosecutor of the Watergate case at that time?

In other words, it is your obligation to the President as the head of state and with the ultimate responsibility to enforce the law to pass on this information to him. What I am asking is is there a reciprocal obligation on the part of the President to you as chief prosecutor to give you all the information he had in helping with that case?

Mr. PETERSEN. I believe there is a mutual obligation involved in that, yes sir.

Mr. COHEN. Looking in retrospect now, do you feel that the President did cooperate by disclosing the information he had at that time? I am asking you in view of the transcripts you read?

Mr. McCLODY. Mr. Chairman, I don't like to—I always hesitate to object to a question propounded by one of my colleagues, especially on my side, but I think that is an ultimate decision which the committee is going to make and the witness should not be called upon to make.

Mr. COHEN. Let me rephrase it a little differently.

Did the President reveal to you or disclose to you the substance of the conversations that he had held with Dean and Haldeman and Ehrlichman on March 21? Did he indicate the details of that conversation to you?

Mr. PETERSEN. I would think the answer to that has to be no, Mr. Cohen. But may I add that that equation is not very easy for me, and I am certain it is not going to be very easy for you. Because, one, I injected another element; that is, see Dean, see Dean on April 15, so that you know what Dean is telling us.

Now, I assume that basically what Dean told him on April 15 squared with what he told him on March 21. The President knew from me that he was getting—that I was getting the same information. So whether or not there was a need for divulgence or disclosure is a very difficult question.

Mr. COHEN. Thank you, Mr. Petersen.

You indicated earlier in response to Mr. Smith that there was something to this effect—no harm in considering Judge Byrne as an FBI Director as long as he was not contacted. In other words, there was no harm thinking about it as long as you didn't do anything about it while the Ellsberg case was pending. Is that correct?

Mr. PETERSEN. That is correct, yes sir.

Mr. COHEN. Why not, the next question, why would it be wrong, in your opinion, to have contacted Judge Byrne about the FBI directorship at that time?

Mr. PETERSEN. I think the perception of fairness was important and I think that contacting a sitting judge with that type of an offer in a celebrated case would raise questions which would give rise to doubts about the fairness of the proceedings.

Mr. COHEN. Would it result in a mistrial, in your opinion, Mr. Petersen?

Mr. PETERSEN. Well, Judge Byrne never did declare a mistrial on that basis.

Mr. COHEN. I understand. But that would be one thing—

Mr. PETERSEN. Many of us thought that he could have.

Mr. COHEN. Thank you. I think you indicated earlier that the testimony of Magruder and Dean started to break this case and I was concerned. Did Mr. McCord's letter to the judge, Judge Sirica, on March 23 have any impact on the development of that case?

Mr. PETERSEN. Well, I really don't know.

Mr. COHEN. That was before you got into it?

Mr. PETERSEN. No, it was in the—but I just—we have not found McCord very before or since. His information was then hearsay, it remains hearsay. He is still not an effective witness.

Mr. COHEN. Thank you.

From your negotiations with Mr. Dean or his attorney, or both of them, were there any areas that there was a reluctance to talk about on their part? In other words, did Mr. Dean reveal to you or talk to you about the Ellsberg break-in or the Dita Beard, or these other areas?

Mr. PETERSEN. I really didn't conduct the negotiations, so that knowledge was relayed to me through the prosecutors. I don't know about that Dita Beard situation, or anything about it as a matter of fact. But, the information with respect to the Ellsberg break-in was kind of tossed out by his counsel, well, let's see what you are going to do with this, which was really, you know, a factor that affected my pondering and it was kind of a challenge.

Mr. COHEN. Is that why you mentioned it to the President in that regard?

Mr. PETERSEN. No, I don't think I mentioned it to him in that regard on the 18th. On the 18th there was just a question that we have it, and there is a—is it against Brady or is it not, and when he said, stay out of it, then, you know, the question of the nature of the challenge began to assume proportions.

Mr. COHEN. Well, the reason I asked the question is that on page 12 of the transcript of the April 16th conversation, Mr. Dean had with the President, there is conversation whereby Mr. Dean would simply refuse to get into areas dealing with his conversations and reports to the President. That's the only reason for asking the question.

I notice also in your exhibit 4 that you have got that—you have dated April 16—

Mr. PETERSEN. Yes, sir.

Mr. COHEN. These documents. Is that as a result of an interview you had with Mr. Dean, these notes?

Mr. PETERSEN. Those notes are as a result of the interviews that the prosecutors, Mr. Silbert and company, had with Mr. Dean and his counsel.

Mr. COHEN. Do you know about what time they were taken?

Mr. PETERSEN. What time?

Mr. COHEN. Right.

Mr. PETERSEN. I—

Mr. COHEN. Approximately. Let me just clarify that.

Mr. PETERSEN. I didn't hear your question.

Mr. COHEN. The approximate time, and the reason I am asking that is that on April 16th, Mr. Dean had a meeting with the President that morning around 10 o'clock on April 16th.

Approximately 1:39 to 3:25, you have a meeting with the President and these notes are taken on April 16th. I am just wondering whether Mr. Dean spoke to your prosecutors after he spoke with the President?

Mr. PETERSEN. This was basically the information that had been conveyed to me the preceding Saturday night.

Mr. COHEN. Thank you.

Mr. PETERSEN. Which I conveyed to the President on April 15th and he asked me to reduce to writing that afternoon, which I did, and dated it the day that I submitted it to him, which was the 16th.

Mr. COHEN. Just one final point, and this has been discussed at great length and I won't dwell too long on it, but it is something that is going to be of importance to this committee ultimately, I think, and that is on the question of grand jury information.

You draw a distinction that the information that you relayed to the President was not that of the grand jury, but was information that was about to be presented to the grand jury, correct?

Mr. PETERSEN. Yes, sir.

Mr. COHEN. Now, as I understand it, the thrust of title 18 of the United States Code, section 1503, which deals with obstruction of justice, it seems to me the thrust of not revealing grand jury information, or that which is about to be presented to a grand jury, the thrust of that statute is not, for example, a violation of the mystique of the secret nature of the procedure?

Mr. PETERSEN. No, sir.

Mr. COHEN. But rather whether or not the information would be used in a way that would alter or influence the due administration of justice?

Mr. PETERSEN. That's correct. Right.

Mr. COHEN. So I am correct in your mind, and it would be correct for us to conclude that it is one thing if the information were used to determine whether or not White House officials were going to be, should be discharged based upon a violation of law; but quite another if you used it for the purpose of assisting in their defense or design of defense or plan, is that correct?

Mr. PETERSEN. Yes, sir.

Mr. SEIBERLING. Would the gentleman yield?

Mr. COHEN. And that is for us to decide?

Mr. SEIBERLING. Would the gentleman yield?

Mr. COHEN. Yes.

Mr. SEIBERLING. I would just like to ask Mr. Petersen, you mentioned that the President, you reported to the President what Dean was telling the prosecutors, is that correct?

Mr. PETERSEN. Yes, sir.

Mr. SEIBERLING. Of course, the President had reports from Dean directly. Did the President at any time indicate to you that there was any conflict between the testimony or the information that you were giving him as to what Dean was saying and the information that he was getting from Dean?

Mr. PETERSEN. No, sir.

Mr. SEIBERLING. Thank you.

Mr. BROOKS. The time of the gentleman has expired.

Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Mr. Petersen, it is my understanding that while you did convey information to the President of the United States in connection with the Watergate investigation, that the President did not give you any information to assist you in that investigation, is that correct?

Mr. PETERSEN. Yes. But, again, I qualified that, because we were talking about the Dean information.

Mr. RANGEL. I mean just generally, Mr. Petersen.

Mr. PETERSEN. Yes, that's right.

Mr. RANGEL. Yes.

Mr. PETERSEN. But, I am going to the question of was there need for him to do so in that he had a basis for assuming—

Mr. RANGEL. I don't want to get into that, but the President never came to you and said, Mr. Petersen, here is something, here is something I suspect that has been reported to me and I wish you would look into it and find out whether there is criminal liability?

Mr. PETERSEN. No, sir.

Mr. RANGEL. Okay. And I think in answer to the gentleman from Maine's question, I think just to put it another way so it is clear in my mind, you would not intentionally give any information, grand jury or other, to anyone, whether he be President or not President, if you thought that that information was going to be used to hinder the investigation of someone that had already been determined were criminal suspects?

Mr. PETERSEN. We couldn't do that. That would make me party to an obstruction of justice.

Mr. RANGEL. And to go further, was it your understanding in connection with your talks with the President of the United States that your jurisdiction was restricted to the extent that you had an obligation to cut off at the pass any evidence that might attach or allege criminal activity to the President of the United States?

Mr. PETERSEN. No, sir. You mean to say that the President charged me with holding up on anything that might involve him?

Mr. RANGEL. Yes. Because I am concerned about a conversation which is described in these transcripts the President has given us which started when he returned from Mississippi and he tells you that you've got to cut off at the pass this business about the report that you were talking about earlier, that his name was being mentioned by Dean or his attorneys and you.

Mr. PETERSEN. Well, you know, that's where we got into it, and I said, "Look, you don't have to worry about me on that, because if I get that type of information, that's not my responsibility, I just take it to the House of Representatives."

Mr. RANGEL. Well, that is my point.

Mr. PETERSEN. Yes, but he didn't say no, don't you dare take it to the House of Representatives.

Mr. RANGEL. But you did respond when you said, we have to draw the line, we have no mandate to investigate the President?

Mr. PETERSEN. That's right. That's right. Our mandate was to follow the evidence.

Mr. RANGEL. But if the evidence led to the President, how did you see your mandate?

Mr. PETERSEN. If the evidence led to the President, then we would take that information and give it to the House of Representatives. I would not pursue it.

Mr. RANGEL. Well, when he talks in the transcript about this, we have to head them off at the pass, isn't he talking about the alleged Dean allegations that were supposed to have been made when he was concerned about that Times report?

Mr. PETERSEN. Well, I don't think that he wanted that information abroad, if that's what you meant. You know, I suppose it is subject to interpretation.

Mr. RANGEL. But he told you to keep that away from the grand jury, anything that alleged any wrong doing on his part, isn't that so?

Mr. PETERSEN. No, I don't think that that's so. I never understood that to be the case. I did understand that he was concerned lest information get abroad that the President was involved. We had no such information.

Mr. RANGEL. So, when he says in this quote here, "You will say this story some New York Times reporter has and Woodward of the Post, that Hersh is reporting that Dean has made a statement to the Prosecutors," and then it says, "Now understand that this is not a grand jury thing. Now, damn it, I want to know what it is."

And then you respond, "I will call right away."

And he says, "I need to know."

And then you say, "Yes, sir."

Isn't he saying that any allegations made by Dean, if it involves the President of the United States, is not a grand jury thing, and this is just after—

Mr. PETERSEN. Well, I don't know whether he is saying that or not. I would think this is subject to—can be given different interpretations. Whether or not he is saying that these reports by the newspapers are not a grand jury thing, and I want to know about that—

Mr. RANGEL. I don't understand what you would bring to the House of Representatives? A man came in and makes an allegation and gives some evidence that the President is involved in a crime, you don't take it to the grand jury? Who do you take it to? Do you take it to the Speaker of the House?

Mr. PETERSEN. Well, I suppose so, or maybe the chairman of the Judiciary Committee.

Mr. RANGEL. But you haven't found anything, you don't have any information—

Mr. PETERSEN. If you assume that the President of the United States shot someone and I have three witnesses to say it, I am not going to take it to the grand jury, I am going to take it over here.

Mr. RANGEL. Did the President ever say to you what he thought about making payments to defendants, especially Watergate defendants, for legal fees and family assistance?

Mr. PETERSEN. There was some discussion of that at one point, and I indicated to the extent that those payments were used as a part of a coverup it was very silly. They could have advertised in the New York Times and collected the money and given it to them.

Mr. RANGEL. But did the President indicate to you that he thought that this had been done in the Scottsboro and the Alger Hiss cases, and that it was in reality a defense fund?

Mr. PETERSEN. I don't know—I don't recall he indicated—that he said that to me. I recall a conversation in which I said to him that it was silly for them to undertake this covert operation, if you will, to furnish funds, if it was simply the question of providing money for the defense and that they could have done it openly.

Mr. RANGEL. Who are they?

Mr. BROOKS. The time of the gentleman has expired.

Mr. PETERSEN. The members of the Committee to Re-Elect the President, whoever was providing the funds.

Mr. RANGEL. Thank you.

Mr. BROOKS. Mr. Moorhead.

Mr. MOORHEAD. Yes, Mr. Petersen. I wish to ask you a few more questions about the conversation you had with Mr. Dean concerning the Hunt safe. Did you say he was under oath at that time?

Mr. PETERSEN. The reporter was present and I didn't come in at the start of the proceedings, but the practice was to put them under oath.

Now, in connection with the interviews now, but this was a different type of interview, here they were being interviewed as putative defendant witnesses in connection with the motion to suppress. The record will reflect that I don't have a record and I wasn't there when the interview started, and I don't know.

Mr. MOORHEAD. This was after the time that he had come to you and was purporting to give the information to the Prosecutor that they needed, however, is that right?

Mr. PETERSEN. Pardon? Oh, no. No. No. This was on December 22.

Mr. MOORHEAD. I see.

Mr. PETERSEN. Dean was still, you know—

Mr. MOORHEAD. Later on then, did you interrogate him further concerning the opening of this safe?

Mr. PETERSEN. No, until after—at the time he began to cooperate, he was interrogated with respect to that.

Mr. MOORHEAD. And did he disclose at that time that he had shredded this evidence?

Mr. PETERSEN. No, sir. That was disclosed not to Mr. Silbert and not to anybody in the Department of Justice while they had the case. It was disclosed only recently and in conjunction with some developments in the Special Prosecutor's investigation.

Mr. MOORHEAD. Was he specifically asked a question in his interrogation at a later date?

Mr. PETERSEN. Pardon? I don't know anything about the investigation at the later dates. It's not under my jurisdiction. I don't know who conducted the interrogation or what it was about.

Mr. MOORHEAD. You said it took 2 or 3 hours that you spent on this one point in December.

Mr. PETERSEN. No, no—on December 22, we spent 2 or 3 hours on that point, yes, sir.

Mr. MOORHEAD. Was it a point then that Mr. Dean might have thought was important?

Mr. PETERSEN. There is no question about it. It was pointed out to him very specifically that he was going to be a witness and that his inability to give satisfactory answers to the questions with respect to these notebooks was going to make him a very, very poor witness.

Mr. MOORHEAD. Now, at the time of the Senate Watergate hearings, Mr. Dean also testified and did not testify as to his involvement here. Do you think this is a point that had been brought to his attention to a great enough extent that he might have felt it was important?

Mr. PETERSEN. There is no question in my mind that after that 3 hour interrogation on December 22 Mr. Dean was fully aware of the importance of that issue.

Mr. MOORHEAD. Now, yesterday Mr. Dean testified to this group and said it wasn't, that this particular matter was not in his consciousness at the time that he was interrogated by the Senate Watergate Committee.

Mr. PETERSEN. Well, his testimony, as I understand it from the newspapers, was that he destroyed the documents some time in January of 1973, which was within a month after the interrogation and at a time when the trial was still going on.

Mr. MOORHEAD. I am talking about his testimony before us yesterday.

Mr. PETERSEN. Yes, I don't know anything about that.

Mr. MOORHEAD. You interrogated Mr. Dean to some extent in April of 1973, following the time that he came in to disclose everything that he could to the prosecutors, is that correct?

Mr. PETERSEN. Well, I did not interrogate him. He entered into negotiations with the prosecutors, Mr. Silbert and others, in which he purported to voluntarily disclose selected items of information, which selected items of information were calculated to enable us to make a judgment that he was entitled to immunity.

Mr. MOORHEAD. Did he give any information at that time concerning presidential conversations?

Mr. PETERSEN. Not to my knowledge.

Mr. MOORHEAD. I will waive the rest of my time to Mr. Wiggins.

Mr. WIGGINS. I thank the gentleman for yielding.

Mr. BROOKS. Mr. Wiggins.

Mr. WIGGINS. One question only, and I would like for you to listen to it carefully.

During the period April 10 through April 30, 1973, was a criminal information filed or an indictment returned, or any criminal complaint filed in any U.S. court or before a Commissioner of such court with respect to the following persons: H. R. Haldeman?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. John Ehrlichman?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. John Mitchell?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Fred LaRue?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. John Dean?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Gordon Strachan?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Dwight Chapin?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. Magruder?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. Segretti?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. Kalmbach?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. O'Brien?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. Parkinson?

Mr. PETERSEN. No, sir.

Mr. WIGGINS. Mr. Kleindienst?

Mr. PETERSEN. No, sir.

Mr. BROOKS. The time of the gentleman—

Mr. WIGGINS. If I have forgotten any names, if you can supply any—Mr. Porter?

Mr. PETERSEN. No, sir.

Mr. BROOKS. The time of the gentleman has expired.

Mr. WIGGINS. Thank you.

Mr. BROOKS. Barbara Jordan, Ms. Jordan.

Ms. JORDAN. Mr. Petersen, you answered to a series of questions just propounded by Mr. Wiggins, that no criminal information or indictment had been returned against these named persons, but is it not a fact that several of them were under investigation which might lead to a criminal information or indictment being filed against them?

Mr. PETERSEN. Yes, ma'am.

Ms. JORDAN. Mr. Petersen, you noted that you have read a part of the White House edited transcripts which were submitted to this committee on the 30th of April.

Would you tell me what percentage of the White House edited transcripts you have read, half of it, three-fourths?

Mr. PETERSEN. Oh, no. I have read March 21 transcript, and selected readings from Petersen-Presidential conversations.

Ms. JORDAN. And that's all you have read in that book?

Mr. PETERSEN. Yes, ma'am.

Ms. JORDAN. So, would you say that you don't feel qualified to assert the veracity of the overwhelming majority of the information which is in that book because you simply haven't read it?

Mr. PETERSEN. To the extent, with one qualification that I made before, to the extent that I read it, it seems to conform with my recollection of it. I can't be certain. Frankly, my memory is not that good whether it is precisely correct.

The April 18 conversation is different, as I remember it.

Ms. JORDAN. Mr. Petersen, on the night of April 15 the President said good night to you about three times, and on one of those occasions on the 15th between 9:39 and 9:41, he talked to you about contacting Mr. Maroulis, Mr. Liddy's attorney, and urging Liddy to come forward, that that's what the President wanted him to do. Do you recall that?

Mr. PETERSEN. Yes, ma'am.

Ms. JORDAN. Do you recall that the President said to you he had talked to Dean but Dean had stepped out of the room at the time he was holding this telephone conversation with you?

Mr. PETERSEN. I don't recall that specifically, but I did understand that Mr. Dean was not—I did not know that Mr. Dean was present.

Ms. JORDAN. Do you know now that Mr. Dean was present during that conversation?

Mr. PETERSEN. I have been informed that he was.

Ms. JORDAN. Do you know of any reason, Mr. Petersen, why the President would not disclose to you the fact that Mr. Dean was there?

Mr. PETERSEN. No, I do not.

Ms. JORDAN. I have no further questions.

Mr. BROOKS. Mr. Thornton.

Mr. THORNTON. Thank you, Mr. Chairman.

Mr. Petersen, I believe you stated in response to earlier questions that had a line of inquiry led to the President that you would bring that information to the House Judiciary Committee or to the House of Representatives, and I would like to inquire whether in your view the inquiry under the constitutional duties imposed upon the House of Representatives is identical with that of a criminal proceeding?

Mr. PETERSEN. No, I think it is not identical.

Mr. THORNTON. In fact, is there any punishment other than removal from office and disqualification from office which can result from this proceeding?

Mr. PETERSEN. My understanding is that's the purpose of the proceedings, and it is limited to that.

Mr. THORNTON. And is not the question whether or not the President might be subject to an indictment or to be named as unindicted coconspirator still an open legal question?

Mr. PETERSEN. Well, I suppose it is and it was addressed to some extent by learned counsel in argument before the Supreme Court the other day and the question being whether or not a grand jury has authority to, by what would ordinarily be normal process, to interfere with the duties of the Presidency.

Mr. THORNTON. The example that you used would be the President in front of witnesses shooting somebody, and you would bring it over to the House of Representatives. That would not be only the proper course of action for the Justice Department in that instance, would it, or should an investigation be made as to the possible criminal aspects?

Mr. PETERSEN. The example was poorly chosen because of the crime of violence that might require immediate seizure of the assailant. But, short of that I think it is a question, an open question, as to whether or not there is an authority in the executive branch to conduct a criminal investigation by grand jury or otherwise on the Chief of State or whether that ought to be left to the House of Representatives.

My own opinion is, and, you know, I hesitate to venture it because—

Mr. THORNTON. Let me say this, I don't mind at all your venturing an opinion. I would say I am very conscious that we can't shift the responsibility for weighing the evidence in this matter, which is before us, to you. In many instances today you have declined to give your opinion on that basis, and so in some other instances you have gone a bit further, as for example, with regard to Mr. Dennis' inquiry about grand jury testimony. And I would like to give you an opportunity, if I understood the question and answer correctly, to make it clear, to maybe clear that up.

I understood Mr. Dennis to ask or to state in his question that you assumed that the President might share the grand jury information with Mr. Ehrlichman or with Mr. Haldeman when you gave it to him, and your answer was yes.

Now, in view of the later questioning by Mr. Cohen and others, I believe it may have been demonstrated you did not assume it would be given to them and I wonder if the answer to the gentlemen from Indiana's question was correct, if I recall it correctly?

Mr. PETERSEN. No, I might quibble with your using the word share. That imports something other than I had in mind.

I thought it was reasonable to believe that minimum standards of fairness would require the President to take the information that he had received from me and advise those against whom it was directed of the charges against them.

Mr. THORNTON. However, he had advised you specifically that he would not disclose information of a substantive nature to these people, had he not?

Mr. PETERSEN. Yes, sir, I think so, but I don't think I ever interpreted that to mean that he was going to—I don't think I ever interpreted that to mean that he was going to say, Mr. Haldeman and Mr. Ehrlichman, you have been with me for X number of years, and you have done an excellent job, but this fellow, Henry Petersen, just came over and said here, and said you ought to be fired so I am just going to fire you. I didn't expect him to do that.

Mr. THORNTON. Certainly. I appreciate that, and I think you have explained perhaps the distinction that I wanted to make there. You did understand from him directly that he did not intend to share the substantive material that you were providing with anyone in any wrongful way?

Mr. PETERSEN. In any wrongful way is the key word, yes, sir.

Mr. THORNTON. Mr. Chairman, if I have time remaining, I yield it back to the committee.

Mr. BROOKS. The time has expired precisely.

Ms. Holtzman.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

Mr. BROOKS. And Ms. Holtzman, Mr. Mann requested that you have his reserved 2½ minutes and so we recognize you for 7½ minutes.

Ms. HOLTZMAN. Thank you. Thank you, Mr. Chairman.

Mr. Petersen, when you had a conversation with the President in which you advised him that you were aware that there had been a break-in in Dr. Fielding's office, did the President say anything aside from "I know about that, and you stay out of it, it's a national security matter?"

Mr. PETERSEN. No. It was a very curt, brief, pungent conversation.

Ms. HOLTZMAN. Did he give you any information that he had about the Ellsberg, the psychiatrist break-in at that time?

Mr. PETERSEN. Well, all I asked him was—did he know whether any evidence had been obtained, and he said that none had been obtained.

Ms. HOLTZMAN. But did he give you any other information, did he give you any other information that he might have had about who was involved?

Mr. PETERSEN. No. It was a national security matter and stay out of it. He didn't tell me anything more.

Ms. HOLTZMAN. So that when the President stated, on August 22, 1973, in a press conference, that on the 18th of April, "When I was talking to Mr. Petersen," and I am quoting here, "at a time that I told him what I had known about the Ellsberg break-in," he didn't tell you at that time on the 18th about Mr. Krogh's involvement or Mr. Young's involvement, whatever that might have been, or Mr. Ehrlichman's involvement or the rest, did he, on the 18th of April?

Mr. DENNIS. Mr. Chairman, I object to that question, because I think it assumes that he knew all of those things at that time and I don't think that's in the evidence.

Ms. HOLTZMAN. Well, Mr. Dennis, the evidence will speak for itself and I don't think that objection is well taken.

Mr. PETERSEN. No.

Ms. HOLTZMAN. Now, Mr. Petersen, referring your attention—

Mr. DENNIS. I have an objection and I don't care whether you rule on it or not.

Mr. BROOKS. Ms. Holtzman will continue. I overrule the objection and I will allow the gentlewoman to continue.

Ms. HOLTZMAN. Mr. Petersen, when you testified in the grand jury that you asked the President "Do you know where there is such information," and this in your conversation with the President on the 18th, and he said no, what were you referring to when you said that you asked the President, "do you know where there is such information"?

Mr. PETERSEN. Where? Or I think that should be——

Ms. HOLTZMAN. Let me give you the entire quote: I don't want to mislead you at all.

The President said, and I am reading from your testimony, "I know about that. That is a national security matter. Your mandate is Water-gate, you stay out of that.

"I said, well I have caused a check to be made and we don't have any information of that nature in the case. I said, do you know where there is such information, and he said, no."

What information were you referring to when you said that?

Mr. PETERSEN. Well, when I——what I was trying to ask was whether there was any information that was recovered from such an excursion.

Ms. HOLTZMAN. I see. The President did say to you on April 18 when you told him about the Ellsberg break-in, "I know about that," is that correct? About the Ellsberg break-in?

Mr. PETERSEN. No, he said "I know about that." But whether "that" means he knew about the break-in at the time, or he knew about the report of the break-in is unclear.

Ms. HOLTZMAN. What report of the break-in was there?

Mr. PETERSEN. Well, he talked to John Dean too, and that's where we got the information.

Ms. HOLTZMAN. I see, so in other words, he knew about it prior to the time, either through you or——

Mr. PETERSEN. He said—I said I have a report and he said I know about that.

Ms. HOLTZMAN. I see.

Mr. PETERSEN. Now, I don't know what the "that" referred to.

Ms. HOLTZMAN. I see. It might have referred to the report.

Mr. PETERSEN. It might have referred to——

Ms. HOLTZMAN [continuing]. Of John Dean's?

Mr. PETERSEN. That's right.

Ms. HOLTZMAN. Or it might have referred to other information he had received about it?

Mr. PETERSEN. Might have referred to the incident itself.

Ms. HOLTZMAN. OK. Then you subsequently had a conversation with the President, Mr. Petersen, on April 27, 1973, between the hours of 4 and 6:48 p.m., is that correct approximately?

Mr. PETERSEN. If that's what the record reflects. My memory is not that precise.

Ms. HOLTZMAN. And on page 781 of the Bantam version of that, the President states, it starts on page 780:

You remember my call from Camp David. I said don't go into the national security stuff. I didn't mean——

HENRY PETERSEN. Oh, I understand.

THE PRESIDENT. Because I remember I think we discussed that silly damn thing, I had heard about it, just heard about it. You told me that. That's it. You told me.¹

Now, was that statement correct? He had known about it as of the time that you told him on April 18? He had either received a report from John Dean or others?

Mr. PETERSEN. That's right.

Ms. HOLTZMAN. You hadn't been the first one who told him about that, is that correct?

Mr. PETERSEN. Judging from my conversation with him, I would not conclude that I was.

Ms. HOLTZMAN. Thank you.

Now, Mr. Petersen, at any time during the times you were meeting with the President in this period of April that we have been discussing, the President knew very well that you were concerned about getting to the bottom of the so-called Watergate matter, is that correct?

Mr. PETERSEN. Yes ma'am.

Ms. HOLTZMAN. And stated to you that he was concerned about getting to the bottom of that too, is that correct?

Mr. PETERSEN. Yes ma'am.

Ms. HOLTZMAN. Did at any time—since we have only these edited transcripts, I am relying on your memory—did he at any time state to you in the conversation he had with you at this point that he had been advised that Mr. Haldeman had given instructions to Mr. Strachan to tell Liddy to shift the capacity from the Muskie to McGovern headquarters?

Mr. PETERSEN. No, ma'am.

Ms. HOLTZMAN. He didn't tell you that?

Mr. PETERSEN. No, ma'am.

Ms. HOLTZMAN. You are positive about that?

Mr. PETERSEN. Yes, reasonably positive, yes, ma'am.

Ms. HOLTZMAN. Did he tell you that he had been informed that Gordon Strachan was going to go in and stonewall it and say I don't know anything you are talking about?

Mr. PETERSEN. No, he did not.

Ms. HOLTZMAN. Did he say that he had been informed that Gordon Strachan had stonewalled it twice in previous interviews?

Mr. PETERSEN. I never heard that phrase until it became current following the publication of the transcripts.

Ms. HOLTZMAN. The President didn't tell you that he had been advised of that in substance?

Mr. PETERSEN. No.

Ms. HOLTZMAN. Did the President tell you that he had been advised in substance that Mr. Krogh had committed perjury before the grand jury?

Mr. PETERSEN. No, ma'am.

Ms. HOLTZMAN. In this period of time we are talking about?

Mr. PETERSEN. No, ma'am.

Ms. HOLTZMAN. Did the President ever advise you that he had been informed that Mitchell and Magruder are potential perjurers?

¹ Submission of recorded conversations to the Committee on the Judiciary by President Richard M. Nixon, Apr. 30, 1974, 910-911.

Mr. PETERSEN. No, he did not. But, there were discussions involving the Mitchell and Magruder culpability which was accepted as a fact between the two of us.

Ms. HOLTZMAN. Did he ever advise you that he had been informed that Mr. Haldeman had earlier on instructed Dean to get a legitimate intelligence operation underway at the CRP operation in words of substance?

Mr. PETERSEN. Well, I don't recall that but on the other hand that was the thrust of all of the stories we were hearing that there was a legitimate intelligence operation underway.

Ms. HOLTZMAN. But did the President inform you——

Mr. PETERSEN. I don't recall.

Ms. HOLTZMAN [continuing]. That he had been advised about Mr. Haldeman's role in connection with that?

Mr. PETERSEN. I don't recall whether he did or he did not.

Ms. HOLTZMAN. Did the President tell you he had been advised by Mr. Dean that Dean was under pretty clear instructions not to investigate this matter during the summer of 1972 and that Mr. Dean was to work on a theory of containment?

Mr. PETERSEN. No; he did not.

Mr. BROOKS. The time of the gentlewoman has expired.

Mr. Mezvinsky.

Mr. MEZVINSKY. Thank you. Thank you Mr. Chairman.

Mr. Petersen, in the fall of 1972, you had a conversation with John Dean about the Patinan hearings?

Mr. PETERSEN. Yes, sir.

Mr. MEZVINSKY. These are the hearings as you know, that were—the proposed hearings about investigating problems——

Mr. PETERSEN. Yes.

Mr. MEZVINSKY. OK. Now, did John Dean discuss with you about writing a letter to the committee?

Mr. PETERSEN. No; I don't recall that he did. He called and asked me what the policy of the Department of Justice was at the time of an impending criminal prosecution when it appeared that congressional hearings would be initiated and I told him that it was our practice to consult with the committee and request a delay of the proceedings. And that was not uncommon; it was usually worked out on a staff-to-staff basis, and it usually occurred in connection with the hearings conducted by the McClellan committee over the years and we were quite successful in working it out with the staff.

He indicated to me there was some inquiry or letter or something of that nature by a Congressman Brown who I didn't know and don't know, and about which I did not know.

Subsequently, it came to my attention that there was such a letter that had been received, I gathered, by the Deputy Attorney General and it was suggested that a written response be prepared. And that response was prepared by lawyers of the Office of the Legal Counsel and lawyers of the criminal division, based on the law, and I dispatched that letter to Congressman Brown, and it made the point that under the *Delaney* case that an intelligent choice as to whether or not hearings should be conducted where the possibilities existed that those hearings might impinge upon the possibility of a fair trial and that

the court would consider the Government as a monolith, even though the hearings were under the aegis of a committee of Congress, whereas the prosecution was under the aegis of the Department of Justice.

Mr. MEZVINSKY. Weren't you somewhat apprehensive about the fact that you had counsel for the President asking and initiating this request?

Mr. PETERSEN. No. He didn't to my knowledge, initiate the request. He asked, called to ask me—

Mr. MEZVINSKY. He brought it to your attention?

Mr. PETERSEN. He called and asked me what is the policy of the Department of Justice, and I informed him what the policy of the Department of Justice was.

Mr. MEZVINSKY. And as far as the extent of it, there wasn't any attempt or discussion about attempting to close off the hearings and not have them at all?

Mr. PETERSEN. I don't think so, but the thrust of our responsibility in that area, as we conceived it, is to try to persuade the committee to close off the hearings until such time as the trial can be conducted.

Mr. MEZVINSKY. Now, I just have one other question, Mr. Chairman, and Mr. Petersen, and that is a matter that you were involved with regarding a U.S. attorney in San Diego and A. D. Stewart, you may remember back in the 1971 riot.

Mr. PETERSEN. Yes, sir. Yes, sir.

Mr. MEZVINSKY. Did anyone from the White House contact you regarding the investigation of Mr. Stewart and if so, who, and what was the nature of the conversation?

Mr. PETERSEN. Nobody contacted me with respect to that. The initiation of that investigation was prompted by complaints that were made by members of a strike force in Los Angeles that were conveyed to me by them, and on our recommendation, the Deputy Attorney General authorized an administrative inquiry into the conduct of the U.S. attorney.

There were five or six allegations of misconduct. Four of the five or five of the six turned out to be utterly without substance. The one that did turn out to be, or to have some substance, involved the action of the U.S. attorney in one, not recusing himself with respect to a subpoena issued—

Mr. MEZVINSKY. To the taxi cab company that involved Mr. Smith, right?

Mr. PETERSEN. A friend of his. And to his actions in trying to urge that subpoena be withdrawn.

Mr. MEZVINSKY. There was no contact by the White House?

Mr. PETERSEN. No contact by the White House.

Mr. MEZVINSKY. Thank you, Mr. Chairman.

Mr. BROOKS. Did Mr. Rangel have a parliamentary inquiry?

Mr. RANGEL. I would just like to ask unanimous consent to ask for clarification of one question.

Mr. BROOKS. For clarification, the gentleman is recognized.

Mr. RANGEL. Mr. Petersen, I didn't hear why the letter of fair trial doctrine was sent to Congressman Brown.

Mr. PETERSEN. Because we conceive it as our responsibility to convey the information to the Congress or to the Committee of the Congress.

whether a responsible Congressman or Senator, that a trial is about to commence, that the action of the Congress, however justified, may result in prejudicial publicity, so that an intelligent judgment can be made by the Congress as to whether or not it wants to accept that risk.

This is the doctrine of the *Delaney* case.

Mr. RANGEL. Why was it sent to Congressman Brown?

Mr. PETERSEN. Because he wrote the letter asking for the—

Mr. RANGEL. I see. Was anything sent to the Chairman of the Committee or to legal counsel. Normally you said it's a staff matter.

Mr. PETERSEN. Honestly, I don't recall. Ordinarily, ordinarily we deal from staff to staff on that thing and it's done very informally. In this instance, I don't recall, as a matter of fact, whether the reply went to Congressman Brown or it went, to my recollection, it did not go to Congressman Brown, it sent to Chairman Patman. Do we have the letter? I think it went—

Mr. RANGEL. That would help us.

Mr. PETERSEN. I think it went to the Chairman. I think we have it here.

Mr. BROOKS. If you could submit the letter and if you don't have it available now, Mr. Petersen, send it and it would be helpful.

Now, the Chair recognizes Mr. Rodino, the gentleman from New Jersey.

Mr. DANIELSON. Mr. Chairman, as I understand it, the witness will give us the Brown letter and his response, is that the idea?

Mr. PETERSEN. I have the letter and it's addressed to the Honorable Wright Patman and dated January 11.

Mr. MEZVINSKY. It's dated what?

Mr. PETERSEN. I can't read the date.

Mr. MEZVINSKY. It can't be January.

Mr. PETERSEN. The date is blurred and it's a Xerox copy, and—excuse me, this is another letter. Well, we will have to get a copy of it and submit it to the counsel.

Mr. BROOKS. We will get a copy then and you submit it, and any response you might have to clarify.

Mr. PETERSEN. Yes, sir.

Mr. BROOKS. The gentleman from New Jersey.

Mr. DANIELSON. Are you making that a part of the record, Mr. Chairman?

Mr. BROOKS. Yes, it will be made a part of the record, without objection.

Mr. Jenner or Mr. Doar?

Mr. DOAR. Could it be marked as the next exhibit for Petersen, exhibit 5, I think it is.

Mr. BROOKS. Whatever the number is.

[The document referred to was marked Petersen exhibit No. 5 and follows:]

[Petersen Exhibit No. 5]

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EXHIBIT No. 34-20

GARRY BROWN
35 DISTRICT, MICHIGAN

COMMITTEE ON
BANKING AND CURRENCY

COMMITTEE ON
GOVERNMENT OPERATIONS

JOINT COMMITTEE ON
DEFENSE PRODUCTION

Congress of the United States
House of Representatives
Washington, D.C. 20515

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September 8, 1972

The Honorable Richard G. Kleindienst
Attorney General of the United States
Department of Justice
Washington, D. C. 20530

Dear Mr. Attorney General:

It no doubt has come to your attention that the Banking and Currency Committee of the House of Representatives, upon which I serve, has, through its Chairman and activities of staff members, become interested and involved in the investigation of the so-called Watergate bugging incident.

Although many of us on the Committee may question the wisdom of still a further investigation of this matter under the auspices of our Committee, it would appear that some of the financial transactions tangential to the incident may come within the purview of our Committee's jurisdiction and, therefore, the Chairman of the Committee may be justified in the interest he has expressed. However, the plans of the Chairman for pursuit of this investigation have raised a serious question in my mind.

The notice members have received from the Chairman indicates that the full Committee will meet at 10:00 A.M., Thursday morning, September 14 to hear testimony from The Honorable Maurice Stans, Chairman of the Finance Committee of the Committee to Re-Elect the President, as well as the testimony of Phillip S. Hughes, Director of the Office of Federal Elections, General Accounting Office concerning their knowledge of the "financial aspects of the Watergate burglary." I am sure the testimony of these gentlemen would add significantly to the Committee's knowledge of the incident; however, I am well aware of the restrictions which have been placed on or are applicable to the testimony of Mr. Stans regarding this matter and feel that in the interest of all concerned your advice with respect to the propriety of Mr. Stans testifying before our Committee in either Executive or Open Session should be sought.

Specifically, I would appreciate as prompt as possible answers to the following questions:

- 1) Would it be inappropriate or improper for Mr. Stans to testify before our Banking and Currency Committee with respect to his knowledge of the financial aspects of the Watergate incident in view of the embargo which has been placed by Judge Richey on his testimony by deposition which has been taken in the civil suit arising out of the Watergate incident?

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2) Would it be inappropriate or improper for Mr. Stans to testify before our Committee with respect to this matter in view of the pending action of the Grand Jury in returning criminal indictments arising out of the Watergate incident?

3) Would it be inappropriate or improper for Mr. Stans to testify before our Committee with respect to this matter because of the impact publicizing of such testimony might have on the ultimate trial of any or all of those indicted as a result of the Grand Jury action, especially insofar as such publicity might be used as a basis for a claim that the accused, or any of them, may have been prejudiced thereby?

I realize that your office is not technically involved in the civil action. However, your opinion with respect to the substance and significance of Judge Richey's Order placing an embargo upon the testimony of Mr. Stans in that action would be most helpful.

With respect to question "2" above, it has also occurred to me that the absolutely secret nature of the Grand Jury deliberations makes it impossible for any of us to know whether or not Mr. Stans might be called upon to testify before our Committee with respect to matters which he may have been called upon to testify about before the Grand Jury, if he so testified, and that his testimony before the full Committee would be violative of the secrecy mandates of the Grand Jury proceedings.

Inasmuch as I know not what position Mr. Stans will take with respect to the Chairman's request that he appear to testify before our Committee on Thursday, I ask these questions only for the purpose of being better informed should a confrontation arise and should I be called upon as a member of the Committee to support or oppose whatever position is taken by Mr. Stans on the Chairman's request for his appearance. I hasten to add that although this inquiry relates only to Mr. Stans' testimony, it is equally relevant to whoever else, similarly situated, the Chairman might feel prompted to call as a witness should this investigation be expanded upon.

In view of the significance of the questions I have asked and the limited time involved, I urgently request that my questions receive your immediate attention and response.

With best regards,

Respectfully,

GARRY BROWN

SEP 29 1972

Honorable Wright Patman
Chairman
Committee on Banking and Currency
House of Representatives
Washington, D. C.

Dear Mr. Chairman:

Congressman Garry Brown has informed us by letter of September 25 that the Committee on Banking and Currency of the House of Representatives is considering extensive public hearings into financial aspects of the so-called Watergate "bugging" incident. Mr. Brown's letter and recent newspaper reports of the Committee's plans indicate that the Committee may hear a number of persons who are likely to be called as witnesses for the Government or for the defendants in the pending criminal prosecution of seven persons indicted in connection with the Watergate incident.

While it is of course important that the public be fully informed concerning the subject matter involved in the Committee's hearings, the Department of Justice feels obliged to draw to the attention of the Committee some law enforcement and civil liberties' considerations that may bear on the desirability or propriety of such hearings being held shortly before the criminal trial at which some of these persons are likely to be called as witnesses. The public interest in a prompt and successful prosecution may be imperiled by widely publicized hearings held at this time. And the basic rights of the defendants to a speedy, fair and impartial trial may be jeopardized by prejudicial publicity or the delay engendered by it.

NOTE: THIS LETTER IS A RESPONSE TO GARRY BROWN'S LETTER OF SEPTEMBER 8, 1972

In a remarkably similar situation some 20 years ago, the conviction of a former public official for corruption was vacated by the United States Court of Appeals for the First Circuit because of the pretrial publicity engendered by a congressional investigation between the time of indictment and the time of trial. The official, a Collector of Internal Revenue, was removed from office and indicted on various charges of corruption in office. Prior to the trial, the House Ways and Means Committee conducted an investigation and public hearing of the official's conduct, over the protest of both his counsel and the Department of Justice. The Government expressed its concern to the Committee with respect to what the court subsequently found to be the case: "the committee hearing afforded the public a preview of the prosecution's case against Delaney without, however, the safeguards that would attend a criminal trial." Delaney v. United States, 199 F.2d 107, 110 (C.A. 1, 1952). The defendant's objection to the hearing was, of course, the adverse publicity which the court also found had prejudiced the fairness of the trial.

In Delaney the court emphasized that the prejudicial publicity had been generated by the Government, rather than by independent press inquiry. It held that the fact that the hearing was not conducted by the same branch of Government responsible for the prosecution did not diminish the harm to the defendant. "[W]e perceive no difference between prejudicial publicity instigated by the United States through its executive arm and prejudicial publicity instigated by the United States through its legislative arm." 199 F.2d at 114. While the court did not question the authority of Congress to proceed with the hearing while the indictment was pending, it held that the constitutional rights of the defendant were nevertheless entitled to protection either by a change of venue or a delay in the trial sufficient to offset the adverse publicity.*

* Supreme Court decisions subsequent to the Delaney case reinforce the Sixth Amendment right of a criminal defendant to a speedy trial and suggest that a lengthy continuance may prevent a subsequent prosecution, at least where the defendant requests an early trial. See Dickey v. Florida, 398 U.S. 30 (1970); Klopfer v. North Carolina, 386 U.S. 988 (1967).

"We think that the United States is put to a choice in this matter: If the United States, through its legislative department, acting conscientiously pursuant to its conception of the public interest, chooses to hold a public hearing inevitably resulting in such damaging publicity prejudicial to a pending indictment, then the United States must accept the consequence that the judicial department, charged with the duty of assuring the defendant a fair trial before an impartial jury, may find it necessary to postpone the trial until by lapse of time the danger of prejudice may reasonably be thought to have been substantially removed." Id. at 114.

Other courts, in discussing Delaney, have suggested that the congressional committee should not have conducted the public hearings prior to the defendant's trial. The Second Circuit, in United States v. Flynn, 216 F.2d 354, 375 (C.A. 2, 1954), cert. denied, 348 U.S. 909, suggested that the hearings should either have been postponed until after Delaney's trial or held in private. Similarly, in Silverthorne v. United States, 400 F.2d 627, 633 (C.A. 9, 1968) the court commented: "While the reversal in Delaney was necessitated because of the fact of prejudicial publicity, this result is inextricably bound up in the rationale that such publicity was caused by the action of the United States Government at a time when restraint would have been the more prudent course of action."

This emphasis on governmental involvement in the generation of adverse publicity has been repeated by the Supreme Court. In Rideau v. Louisiana, 373 U.S. 723 (1963), the Court found a violation of due process in the trial of a defendant in the same parish where television publicity of his interrogation by the sheriff was intense.

"Under our Constitution's guarantee of due process, a person accused of committing a crime is vouchsafed basic minimal rights. Among these are the right to counsel, the right to plead not guilty,

and the right to be tried in a courtroom presided over by a judge. Yet in this case the people of Calcasieu Parish saw and heard, not once but three times, a 'trial' of Rideo in a jail, presided over by a sheriff, where there was no lawyer to advise Rideo of his right to stand mute." 373 U.S. at 726-27 (footnotes omitted).

The courts, largely because of a proper concern for freedom of the press, have been reluctant to regulate press coverage of sensational trials. At the same time, the courts have the responsibility to preserve the right of criminal defendants to an impartial trial. Perhaps the most extensive judicial discussion of the balancing of these interests in recent years was the decision in Sheppard v. Maxwell, 384 U.S. 333 (1966). There the Court again vacated a criminal conviction because of excessive publicity, not only prior to but during the trial. While there were a variety of factors involved in that case, the Court emphasized the special obligation of insuring that government officials, in that case the prosecutor, police officers, and the coroner, not contribute to the production of adverse publicity. 384 U.S. at 359.

The United States District Court here in the District of Columbia has recognized its responsibility in this regard by adopting a special rule to guard against adverse publicity prior to criminal trials. Rule 100 of the Court's rules strictly enjoins court personnel and prosecutors not to disclose matter prejudicial to the defendant and further authorizes the judge in a widely publicized or sensational case to issue a special order governing extrajudicial statements by parties and witnesses. It was this rule that Judge Richey invoked in a pending civil action, also emanating from the Watergate incident, in order to protect the rights of the criminal defendants.

This Department is seriously concerned that public hearings on matters related to the Watergate case at this

time may not only jeopardize the prosecution of the case but also seriously prejudice the rights of the defendants. It is distinctly possible that matters which adversely reflect on the defendants, and which would not be admissible at the criminal trial, will become known to the public and to potential jurors as a result of the proposed congressional investigation. This was the result of the advance publicity in the Sheppard case and was one of the principal reasons for the reversal of the conviction.

This matter of prejudice through adverse pretrial publicity has been a matter of grave concern to all lawyers in the United States. It was for this reason that the American Bar Association commissioned a study of the problem as part of its formulation of minimum standards for the administration of criminal justice. In the report on Fair Trial and Free Press the Committee on Minimum Standards observed:

"Freedom of speech and of the press are fundamental liberties guaranteed by the United States Constitution. They must be zealously preserved, but at the same time must be exercised with an awareness of the potential impact of public statements on other fundamental rights, including the right of a person accused of crime, and of his accusers, to a fair trial by an impartial jury.

*** It is important both to the community and to the criminal process that the public be informed of the commission of crime, that corruption and misconduct, including the improper failure to arraign or to prosecute, be exposed whenever they are found, and that those accused of crime be apprehended. If, however, public statements and reporting with respect to these matters assume the truth of what may be only a belief or a suspicion, they may destroy the reputation of one who is innocent and may seriously endanger the right to a fair trial in the event that formal charges are filed.

*** [D]uring the period prior to trial, public statements originating from officials,

attorneys, or the news media that assume the guilt of the person charged, that include inaccurate or inadmissible information, or that serve to inflame the community, may undermine the judicial process by making unobtainable a jury satisfying the requisite standard of impartiality." pp. 16-17.

Committees of Congress have been careful in the past to give proper regard to law enforcement and civil liberties' concerns in performing their investigative functions. The Department of Justice is highly concerned that a well publicized congressional investigation at this time will jeopardize the rights of criminal defendants and endanger the prospects of a prompt and successful prosecution. For these reasons the Department, as it did in the DeLaney case, asks that the Committee give serious consideration to these concerns before holding hearings on this matter which will undoubtedly come to trial in the very near future.

Sincerely,

Henry E. Petersen
Assistant Attorney General
Criminal Division

Mr. BROOKS. Mr. Rodino.

The CHAIRMAN. Mr. Petersen, I believe that in the course of your testimony you referred to a conversation you had with the President and you described it as though he were irate and it referred to the fact that he thought that immunity had been granted to Dean; is that correct?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. And I think that at that same time, you also stated that during the course of that conversation the President had come to some conclusion that Dean was up to his ears; is that right?

Mr. PETERSEN. I don't know that that occurred in the same conversation.

The CHAIRMAN. Well, it may not, but it was during the course of a conversation you had with him regarding this matter?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. And did he mention whether or not he had come to any conclusion regarding Ehrlichman and Haldeman?

Mr. PETERSEN. No, sir. I don't think that the President ever indicated to me any feeling which I could construe as his belief that Ehrlichman and Haldeman were guilty.

The CHAIRMAN. But yet, he did mention all of the figures, Mr. Dean, Mr. Haldeman, Mr. Ehrlichman, during the course of his conversation with you regarding this matter?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. Mr. Petersen, referring to the edited transcript, which has been submitted by the President to the Judiciary Committee, page 1203, the blue-book transcript, a telephone conversation of April 18, which occurred between 2:50 and 2:56 p.m., did the President during the course of that conversation, if you recall, discuss Dean and the question of immunity regarding Dean?

Mr. PETERSEN. It is my recollection that it was a telephone conversation in the afternoon of April 18, 1973, at which the telephone was discussed—in the telephone conversation there was discussed the question of whether or not Dean had been granted immunity. And let me tell you, if I may, why I believe my recollection is correct, because when—I didn't have the information or at least we discussed it, we were arguing about it, and I agreed to go back to Silbert to get the information and I would call the President back.

I told Mr. Doar that I called the President and he said, well, the record reflects that the second call was from the President to you. And as I can only construe that to mean that I called the President and they said, well, you know, or I said this is Henry Petersen and he asked him to call him and thereafter he called me back.

That second conversation was to report the results of that conversation and it was at the conclusion of that conversation we talked about the Ellsberg thing, which was also in the second conversation on that day.

The CHAIRMAN. You are talking about the conversation of April 18?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. Which took place between 2:50 and 2:56 p.m.?

Mr. PETERSEN. That is my recollection.

The CHAIRMAN. If you have had an opportunity to examine the transcript, do you find any reference to any statement regarding the President?

Mr. PETERSEN. No, sir.

The CHAIRMAN. Mr. Petersen?

Mr. PETERSEN. No, I checked.

The CHAIRMAN. And the question of immunity?

Mr. PETERSEN. I can only conclude that my recollection is wrong with the time of the call or the transcript.

The CHAIRMAN. Or the transcript, yes.

Mr. McCLORY. Will the gentleman yield, Mr. Chairman?

The CHAIRMAN. I yield.

Mr. McCLORY. Isn't this the fact, Mr. Petersen, that in this same context of the President talking about Dean being up to his ears and inquiring about his request for immunity, that he was tending to explain or intending to indicate the innocence of Mr. Haldeman and Mr. Ehrlichman, and that the reason Dean was asking for this immunity and making these statements was because he was heavily involved himself? That would be the implication?

Mr. PETERSEN. I guess we are getting the two conversations confused. The implication that you drew is certainly a fair one, and from one conversation with the President in which he cautioned me on a question, and he had said about Dean, that Dean was up to this to his ears, and it may very well be he is simply trying to exonerate himself or to get himself off by informing on others, and perhaps wrongly, so there was that concern.

Mr. McCLORY. But while Dean was talking, he was also negotiating for immunity, wasn't he?

Mr. PETERSEN. Yes, he was.

Mr. McCLORY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Petersen, one other question.

Mr. Petersen, have you had an opportunity to review the transcript of April 19 and your conversation with the President?

Mr. PETERSEN. Yes, sir.

The CHAIRMAN. Do you recall that conversation? It is not included in this?

Mr. PETERSEN. I know it is not included in this, and I read it briefly Monday of this week at approximately 1:45 in the afternoon, at a time when Mr. Ehrlichman had indicated he was going to put me in the stand as a defense witness.

The CHAIRMAN. Was it—do you recall the length of your conversation with the President?

Mr. PETERSEN. I am told that that conversation on that date was about an hour. I don't specifically recall.

The CHAIRMAN. Did you review the transcript?

Mr. PETERSEN. Yes, I did.

The CHAIRMAN. Did the transcript reflect in any way that it could have been near an hour?

Mr. PETERSEN. It was a very abbreviated transcript. I read it very hurriedly, very quickly.

The CHAIRMAN. Would you say that the transcript reflected accurately the conversation that you had with the President?

Mr. PETERSEN. Yes. It was one——

The CHAIRMAN. I am talking about a transcript now, of a conversation, a recorded conversation. It has to be either accurate or inaccurate.

Mr. PETERSEN. I understand.

Well, it was inaccurate in at least one respect. The second aspect of the conversation about the FBI job was not there. Whether or not it was an accurate summary of all relevant statements, you know, obviously, my memory is not that good.

Mr. ST. CLAIR. Mr. Chairman.

Mr. BROOKS [presiding]. Counsel for the President. Yes, sir.

Mr. ST. CLAIR. Maybe I can shed some light if I know what you are talking about.

A portion of a——

Mr. BROOKS. If you can read my mind, Mr. St. Clair.

Mr. ST. CLAIR. A portion of a transcript was furnished to Judge Gesell. It was not purported to be a complete transcript. It only related to one aspect with regard to this witness which Judge Gesell ordered to be produced in camera. I think it was only 10 pages long. It was not purported to be nor did anyone represent that it was a complete transcript. It was only that portion that Judge Gesell wanted to look at that he specifically ordered—well, that he requested that the President produce. It related to rather sensitive national security matters.

Mr. BROOKS. The time of the gentleman has expired.

Mr. DANIELSON. Mr. Chairman?

Mr. BROOKS. For what purpose does the gentleman rise?

Mr. DANIELSON. Mr. Chairman, at the time I inquired earlier, I reserved the balance of my time.

I ask permission to ask one question.

Mr. BROOKS. All right.

Mr. DANIELSON. Your attention is invited to Petersen Exhibit 2.¹ It is Petersen Exhibit No. 2, page 2.

Mr. PETERSEN. We don't have it here.

Mr. DANIELSON. That is this memo from the CIA. It is the fourth page, I believe, fifth page. This is a memorandum for the record, Summary of John F. Caswell's Contacts. That is what it says at the top of the page.

Do you have it before you, sir?

Mr. PETERSEN. Yes, sir.

Mr. DANIELSON. In Paragraph 4, the last one. It is very short. It reads:

"In late May or early June 1972, at the request of the Director of Security, Mr. Caswell had a very brief interview with Mr. Arnold Parham of the FBI, during which the foregoing points were covered."

The foregoing points related to providing disguises and what not for Mr. Hunt.

Tell me, please, what was the FBI doing investigating Mr. Hunt in late May or early June of 1972, which is 2 or 3 weeks before the Watergate burglary?

Mr. PETERSEN. I don't know the answer to that, sir. I think that that, the only thing I can conclude is that there was a common ground of interest in an investigation and they were discussing the common

¹ See p. 5.

ground. The answer to that would have to come from either CIA or the FBI.

Mr. DANIELSON. That entire memo, Petersen exhibit 2, relates pretty generally, if not exclusively, to Mr. Howard Hunt.

Mr. PETERSEN. That is right, but it is a document that was furnished to us with respect to the matter of disguises and it purports to be a memorandum of record prepared in CIA. So I am not certain that everything in it is germane to the point that we were interested in.

Mr. DANIELSON. I recognize that. Mr. Hunt came to light in Watergate in connection with the burglary at the Democratic National Committee headquarters—

Mr. PETERSEN. That is right.

Mr. DANIELSON. On June 17.

Mr. PETERSEN. That is right.

Mr. DANIELSON. This investigation referred to in paragraph 4 by the FBI of Mr. Hunt took place 3 weeks earlier, in May or June.

Mr. PETERSEN. I don't know what that was. What we asked for was information in October or thereabouts from CIA about it and this is what was furnished to us and we don't know the basis for that.

Mr. DANIELSON. If the FBI made an investigation, it probably would have a record of it, would it not?

Mr. PETERSEN. I assume so.

Mr. BROOKS. The gentleman from Illinois, Mr. McClory.

Mr. McCLORY. In accordance with our usual practice, I ask unanimous consent to have released to the public the scope of testimony of Mr. Petersen.

Mr. BROOKS. Without objection, it is so ordered.

Mr. St. Clair?

Mr. St. CLAIR. May I have leave to ask just three or four questions?

Mr. BROOKS. Without objection, the gentleman is recognized.

Mr. St. CLAIR. Thank you, sir. Sir, you told us today that Mr. Dean told you concerning the contents of Mr. Hunt's safe that he knew that the notebooks, Hermes notebooks, were not in the materials turned over to Pat Gray.

Mr. PETERSEN. That is correct.

Mr. St. CLAIR. So that if yesterday, on page 3539, carrying over to the next page, he testified that he told you that he would surmise that the Hermes notebooks were among the materials turned over to Mr. Gray, he was mistaken?

Mr. PETERSEN. Yes, I would say he is mistaken. But let me say that testimony was recorded by a court reporter at the time it was taken and is available for examination under appropriate circumstances if you get it from the Special Prosecutor.

Mr. St. CLAIR. Thank you.

Did you ever tell Mr.—the President that the information you gave to him specifically was grand jury information on any occasion?

Mr. PETERSEN. No, sir.

Mr. St. CLAIR. You know that when he said to you in substance, I won't pass it on, I know the rules of a grand jury, he had in mind grand jury information?

Mr. PETERSEN. I assume so.

Mr. ST. CLAIR. Would you consider telling the President that LaRue was a broken man and had told everything to be grand jury information of the kind that should not be passed on?

Mr. PETERSEN. No, sir; I would consider that an ultimate fact as opposed to an evidentiary or testimonial fact.

Mr. ST. CLAIR. When did Mr. Dean actually go before a grand jury, do you know?

Mr. PETERSEN. No, I don't. Subsequent to the time we turned the case over to the Special Prosecutor.

Mr. ST. CLAIR. So sometime well after April 30, is that right?

Mr. PETERSEN. That is right.

Mr. ST. CLAIR. On the other hand of your communications with the President, and referring to page 847 of the President's submission—do you have that before you?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. He makes it clear there on that page that he wants you to talk only to him. Is that not right?

Mr. PETERSEN. Yes.

Mr. ST. CLAIR. He is not saying there he won't talk to anybody else; he is saying he wants you to report directly to him. Is that right?

Ms. HOLTZMAN. Mr. Chairman.

Mr. BROOKS. For what purpose does the gentlewoman rise? Pardon me, Counselor.

Mr. ST. CLAIR. Mr. Chairman, I am seeking to—I am sorry.

Ms. HOLTZMAN. If counsel is going to proceed on a unanimous-consent request, I think it is unfair to cross-examine a witness on the basis of transcripts if counsel has the tapes in his possession. I will therefore object.

Mr. HOGAN. Mr. Chairman, may I be heard on the objection?

Mr. BROOKS. Mr. Hogan.

Mr. HOGAN. Since our own counsel has been given extensive time after the conclusion of the members' questioning, I think it is only fair that the President's counsel be given the same opportunity.

Mr. BROOKS. Now, why don't we just discuss it with Mr. St. Clair?

Would you just rephrase that question and remember that you do this under a unanimous consent or somebody is going to object and you are going to be through.

Mr. ST. CLAIR. I just want to clear this point up, Mr. Chairman.

With respect to the conversation between you and the President that appears on page 847 of the President's submission, is it fair to say that the President is saying—is it your memory—does this accord with your memory or refresh it that the President said in substance to you that he wanted you to talk only to him that he was acting as counsel and everything else and, I don't want it from anybody else?

Do you recall any such conversation?

Mr. PETERSEN. I think it was clear that I was not to report to anybody else at the White House.

Mr. ST. CLAIR. It was not to be screened by anybody. It was to come directly to him?

Mr. PETERSEN. That is right.

Mr. ST. CLAIR. Is that your memory of this portion of your conversation?

Mr. PETERSEN. I am guided—Mr. St. Clair, to be perfectly honest with you, without refreshing my recollection, I would be hard pressed to repeat that conversation.

Mr. ST. CLAIR. Does this refresh your recollection as to the substance of it?

Mr. PETERSEN. Yes, sir.

Mr. ST. CLAIR. Thank you.

Now, sir, as a prosecutor, is it sometimes the practice to disclose to a prospective grand jury witness that other witnesses have testified and told everything they know?

Mr. PETERSEN. In terms of that ultimate statement, yes.

Mr. ST. CLAIR. Not telling the details of it, but advising him that other people have testified.

Mr. PETERSEN. That is right.

Mr. ST. CLAIR. Is that correct?

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. And that technique is used to be sure that the truth will be told to the grand jury and mistakes will not be made. Is that right?

Mr. PETERSEN. That is correct.

Mr. ST. CLAIR. Would you consider that to be an improper device?

Mr. PETERSEN. No, sir.

Mr. ST. CLAIR. Thank you. No further questions.

Mr. DOAR. Mr. Chairman.

Mr. BROOKS. Mr. Doar, counsel for the committee.

Mr. DOAR. I would just like the committee to also note for the record page 966 of the President's White House edited transcripts. That involves a conversation between the President and Mr. Petersen as well with respect to this matter of passing on grand jury testimony.

Mr. BROOKS. Thank you, counsel.

Without further comment, the committee is recessed until 10 o'clock Monday morning. We anticipate hearing from Mr. Colson.

Mr. PETERSEN. I take it I am excused, Mr. Chairman.

Mr. BROOKS. Thank you. We excuse the witness.

Thank you.

[Whereupon, at 6:25 p.m., the committee recessed to reconvene at 10 a.m., Monday, July 15, 1974.]

IMPEACHMENT INQUIRY

MONDAY, JULY 15, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10:25 a.m., in room 2141, Rayburn House Office Building, Hon. Peter W. Rodino, Jr. (chairman) presiding.

Present: Representatives Rodino (presiding), Donohue, Brooks, Kastenmeier, Edwards, Hungate, Conyers, Eilberg, Waldie, Flowers, Mann, Sarbanes, Seiberling, Danielson, Drinan, Rangel, Jordan, Thornton, Holtzman, Owens, Mezvinsky, Hutchinson, McClory, Smith, Sandman, Railsback, Wiggins, Dennis, Fish, Mayne, Hogan, Butler, Cohen, Lott, Froehlich, Moorhead, Maraziti, and Latta.

Impeachment inquiry staff present: John Doar, special counsel; Albert E. Jenner, Jr., minority counsel; Samuel Garrison III, deputy minority counsel; Bernard Nussbaum, counsel; Richard Gill, counsel; Gary Sutton, counsel; Michael Conway, counsel, and Lee Dale, counsel.

Committee staff present: Jerome M. Zeifman, general counsel; Garner J. Cline, associate general counsel; Alan A. Parker, counsel; Daniel L. Cohen, counsel; William P. Dixon, counsel; Arden B. Schell, counsel; Franklin G. Polk, associate counsel; Thomas E. Mooney, associate counsel; Michael W. Blommer, associate counsel.

Also present: James D. St. Clair, special counsel to the President; John A. McCahill, assistant special counsel; and Malcolm J. Howard, assistant special counsel.

The CHAIRMAN. The committee will come to order.

Mr. Colson, I want to advise you that you have the right to remain silent and not to provide any testimony or information which may tend to incriminate you. But, if you do testify, anything you say here may be used against you in any other legal proceeding. You have the right to consult with your attorney prior to answering any question or questions, and counsel may accompany you for the purpose of advising you of your constitutional rights.

You have been, I understand, provided with a copy of the rules of the House and the rules of the committee.

Will you kindly stand now. Raise your right hand.

Do you solemnly swear that the testimony you are about to give before this committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COLSON. I do.

The CHAIRMAN. Would you kindly state your name and identify your counsel, please, sir.

**TESTIMONY OF CHARLES COLSON, ACCOMPANIED BY DAVID
SHAPIRO AND KENNETH L. ADAMS, COUNSEL**

Mr. COLSON. My name is Charles Colson. With me is Mr. Kenneth Adams who is on my right, your left, and Mr. David Shapiro, both of the firm of Dickstein, Shapiro & Morin.

The CHAIRMAN. Mr. Doar.

Mr. DOAR. Mr. Chairman, in connection with the questioning of Mr. Colson this morning, we have distributed to the members a scope of testimony of Charles Colson. And we have also distributed to the members and to Mr. Colson and Mr. St. Clair a number of exhibits that we are going to question Mr. Colson about during the course of the day. It seemed to us that it would be most convenient if we described those exhibits in one package so that the members would be able to refer to them and we would save the time of the members in going through the day.

The CHAIRMAN. Will you nonetheless identify them as you go along.

Mr. DOAR. We will.

The CHAIRMAN. And they will be marked accordingly.

Mr. DOAR. Briefly, Mr. Colson, will you tell the committee your background?

Mr. COLSON. I was appointed special counsel to the President November 3, 1969, a position which I held until March 10, 1973, when I resigned to return to the private practice of law.

From the years of 1961 to 1969 I was a practicing attorney in Washington and in Boston with the firm of Gadby & Hanna. Prior to that I served as the administrative assistant to former Senator Leverett Saltonstall, of Massachusetts. I had been assistant to the Assistant Secretary of the Navy and I served prior to that in the Marine Corps.

Mr. DOAR. How old are you, Mr. Colson, and tell us something about your education.

Mr. COLSON. I am 42, born October 16, 1931, in Boston, Mass. I attended schools in and around the Boston area, graduated in 1953 from Brown University. I spent 4 years at night at George Washington University Law School from which I graduated in 1959.

Mr. DOAR. And when you left service in the Government at the White House on March 10, 1973, what arrangements had you made for your future professional occupation?

Mr. COLSON. I intended when I left the White House to become a partner in a firm that had been in existence for many years, 20 years. When I became a member of the firm the name of the firm was changed to Colson & Shapiro. I had tentatively agreed with the members of that firm that I would join it upon my departure from the White House. I did not actually make any agreement to do so until I left the White House and entered into no formal agreement until I left.

Mr. DOAR. Did you enter into a formal agreement with that firm?

Mr. COLSON. I did after March 10 when I joined it; yes.

Mr. DOAR. And how long did you remain a member of that firm?

Mr. COLSON. Until March 1, 1974, at which point I took a leave of absence from the firm, and I withdrew from the firm on July 1 of this year.

Mr. DOAR. When you first came to the White House, to whom did you report?

Mr. COLSON. I reported to Mr. Haldeman, who was then and remained chief of staff during the period that I was in the White House.

Mr. DOAR. Did you during the years that you were at the White House have direct communication with the President of the United States?

Mr. COLSON. Yes, sir.

Mr. DOAR. And how would you describe that direct relationship?

Mr. COLSON. Well, the nature of my assignment at the White House, Mr. Doar, increasingly involved me in matters that the President was personally interested in. And I would from time to time in 1970, increasingly in 1971 and more in 1972 be dealing directly with him and reporting to him on matters that he assigned me to handle for him.

Mr. DOAR. Where was your office located?

Mr. COLSON. It was in the Executive Office Building.

Mr. DOAR. But where was it located with respect to the President's office in the Executive Office Building?

Mr. COLSON. It was the office immediately next to his on the south side of his office.

Mr. DOAR. Had you known President Nixon prior to the time that you commenced your service at the White House in 1969?

Mr. COLSON. Yes, sir.

Mr. DOAR. How would you describe that relationship?

Mr. COLSON. It was not a close personal relationship. We were acquainted with one another. I had known Mr. Nixon when he was Vice President, and I had been former Senator Saltonstall's administrative assistant. We had worked together on a few matters during that period of time. I did spend time with him in 1964 when he was considering the possibility of running that year, or at least being active in politics that year. I worked with him from time to time at his law office in New York in 1964. I knew him off and on socially between that period and 1968.

In 1968 I took a leave of absence from my law firm for 5 months to work in his campaign, which brought me in contact with him from time to time. But, I did not have a close personal relationship. I knew him well, and I think he knew me well.

Mr. DOAR. During the time that you were in the White House, is it fair to say that you did develop a close personal relationship with the President?

Mr. COLSON. I think that's fair to say.

Mr. DOAR. Has that relationship continued to the present time?

Mr. COLSON. Well, I wouldn't say at the present time. But, I have from time to time talked with him since I left the White House. I consider it—I don't consider my feelings to be affected by all that has gone on, the personal feelings.

Mr. DOAR. Now, just so that the record is clear, I asked you whether or not at one time during the time you were under investigation by the Special Prosecutor's office you retained Mr. St. Clair as your attorney or had discussions with him about retaining him?

Mr. COLSON. We had discussions, Mr. Doar, but there was never a formal relationship established. We were exploring the possibilities

of Mr. St. Clair representing me if I was indicted in a matter as to which my counsel at that time, Mr. Shapiro, who is here with me today, would be a witness, and, therefore, precluded from representing me.

Mr. DOAR. Did you have an opportunity to review your files and matters with Mr. St. Clair during that time?

Mr. COLSON. I think we reviewed some matters with him at that time. That was in September and October of 1973. We didn't extensively review the files. We did discuss some elements of my defense, particularly in the Ellsberg matter, which we were concerned with in September.

Mr. DOAR. Mr. Colson, the first area that I would like to question you about today is the summer of 1971, and Mr. Jenner and myself and members of our staff have had an opportunity to question you about the events of that summer, your knowledge, and actions during that summer. Is that a fair summary of our conversations?

Mr. COLSON. We have talked extensively about that period of time, yes, sir.

Mr. DOAR. Does Mr. Colson have a copy of the exhibits? Would you give Mr. Colson the letter of June 25. I would like the record to mark Mr. Colson's memorandum of June 25, 1971, to Mr. Halde-
man——

Mr. RAILSBACK. What material is this in, the plumbers?

Mr. DOAR. Plumbers, yes. It is in the plumbers material.

I would like the record to mark that exhibit as Colson exhibit No. 1, the memo of June 25.

[The letter referred to was marked Colson exhibit No. 1 and follows:]

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CONFIDENTIAL

June 25, 1971

CQ2333

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

CHARLES W. COLSON

SUBJECT:

New York Times Article

Because I think that the New York Times/Kennedy-Johnson papers controversy is and will continue to be a very major issue with very important political ramifications, I think we should at each stage of the game very carefully assess where we stand, what our strategy is, short and long term, and we must be exceedingly careful not to overreact or to worry about the particular daily turn of events. This issue, in my opinion, has profound implications which could easily be extremely important, if not even decisive in the next election. Therefore, what happens tomorrow or even next week is of less consequence than how we play it over the long pull.

I think you know that I am very impulsive by nature. I tend to plunge hard into the issue of the moment and like to join battle on every hot topic that comes along. In this case, however, because I feel that the issues are so profound I am in effect advocating what is for me a very uncharacteristic caution.

Attached is a summary of where I think we stand at the moment, how I think the issues may develop and what some of their longer term implications are.

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A. WHERE WE STAND TODAY

As Opinion Research has pointed out, this issue has not had the enormous impact on the public that one would expect from the intensive press coverage. To the extent that the public is aware of it, they do not understand the issues very well. I believe there are two perceptions:

1. We are against the press;
2. The government lies -- more specifically LBJ and the Democrats lied us into Vietnam.

002334

The heartland isn't really aroused over this issue. There is nothing like the Calley case here. People know there is a controversy; but they're not entirely clear as to what it is all about. Partisan Republicans don't quite understand why we are suppressing information that could be damaging to the Democrats; some people, I am sure, think that we are covering up our own failures and most importantly, no one is really excited about what they regard as the leak of "ancient" documents. They do not understand the security issue (if on the other hand we prosecute Ellsberg and it becomes a notorious trial, this could spark a major readily understandable issue and a strong public reaction with our natural constituency rallying behind us.

The Democrats are horribly divided on this issue. They are split, confused, angry and scrambling to get away from it. As of today, they are delighted that the issue is focusing on Nixon vs. the New York Times but most of them are very well aware that the major thrust of the controversy will eventually become the Kennedy-Johnson mishandling of the war as to which every possible Democratic candidate except McGovern, McCarthy, Bayh and Hughes stand to lose badly.

B. NIXON VS. THE PRESS ISSUE

Over the short term, this will remain a hot issue, but it will pass. After the court decision (regardless of the outcome) the vast majority of the people will forget it. The liberal press will keep bringing it up and will keep trying to knife us with it, but is it not the kind of an issue that will last. People just don't give a damn that we beat the New York Times in the Supreme Court or the New York Times beat us.

2.

Those who believe we are anti-press will simply have their views confirmed even further, but most of those who believe we are anti-press aren't with us anyway. Those who believe the press is biased and irresponsible will continue to think so.

The prosecution of Ellsberg could have some positive benefits for us in that if he is really painted as a villain, the fact that he conspired with the press and the press printed the documents that he stole, is bound to have a bad ruboff on the press. Once again, however, the issue is going to tend simply to confirm beliefs people already have; it is not likely to switch very many people.

As for the working press, as a result of this controversy, they will like us even less and that is the case whether we win or lose in the Supreme Court. The vast majority of the press are hostile to us; that is a fact, not just our paranoia. Yet we somehow manage to continue to maintain a solid base of popular support; hence we will survive the continued -- yes, even aggravated -- hostility of the working press.

On balance, therefore, I don't see any real gain or loss out of the press issue. The only way in which it hurts us is that for the moment, it obscures what are the real issues; that is, the Democrats' mis-handling of the government during the Kennedy-Johnson years and the theft of classified documents. Hence, it is clearly in our interest to let this issue fade. The longer it remains around the longer it will take to get into the public's mind what we want to be the continuing issues that emerge from this controversy.

For these reasons, I would not recommend that we use the Vice President; that would only escalate the press issue. I would not recommend that we attack the press or that any Administration spokesmen attack the press. I would not even recommend that our supporters on the Hill start attacking the press because to do so would only keep the press issue itself alive. Let me qualify this by saying that I would prosecute any newsmen if it can be demonstrated (as in the case of Neil Sheehan perhaps) that they were conspirators in the theft of these documents or that they conspired in having them reproduced. It is worthwhile to paint an individual bad if it is part of the prosecution of a natural enemy like Ellsberg.

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3.

There are two points that we must make with respect to the whole press issue. We must make them through our most effective spokesmen and make them often enough so that we're sure that they are reasonably clear in the public's mind. We can then let the rest of the issue go away.

1. This Administration cannot allow stolen documents to be distributed, printed in the press, etc. Classified documents are classified for a good reason. Admittedly the government may overclassify. But we cannot risk having anyone take the law into his own hands to make that individual judgment, in effect to put himself above the law because one document could endanger lives -- many lives.

2. The Government has a duty to enforce the law. When once the press was warned not to publish and then said that notwithstanding that warning it was going to publish, the Attorney General had no recourse but to bring the action he brought. 002336

These two points need to be articulated very clearly, very crisply, very simply, very nonlegalistically. Several of our spokesmen can make the point. Klein does it very effectively when he goes around the country; Rogers is an excellent person to make the point (and we might get him to once the issue quiets down); the Attorney General can make this point as well. We should endeavor to get responsible lawyers around the country making the point. Professor Freund's argument in today's New York Times is very helpful. Finally the President should make these two points and just these two points, either in an address to the nation or in his next press conference. At the moment, I am very much inclined to think that an address to the nation would over-escalate the press issue and involve us much too deeply in the whole controversy. I think a press conference will probably be a far more desirable opportunity.

Over the long haul, we might well consider recommendations like Scali's that the President meet with a selective group of newsmen, perhaps the leaders of Sigma Delta Chi and the American Society of Newspaper Editors. These are things that can be done once the issue is quiet. They should not be done while the issue is hot because they will only escalate it and give the appearance that we are dealing from a position of weakness. In the course this can be done, both

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to get a better understanding, face to face, with journalists and also to demonstrate that we are not "anti-press."

Further we can continue to push declassification and declassification practices and procedures. For example, at the right time an executive order or a clarifying memorandum pointing out the documents should not be classified unless there is a real national security reasons will help make the point with the public that we do believe in the "right to know". Once again these should not be done now; they would only escalate the issue and would only appear to be reacting. We should over a period of time prove that we believe in the right to know by what we do. It is more important than what we say.

C. CREDIBILITY OF GOVERNMENT (AND THE DEMOCRATS IN PARTICULAR)

In my opinion, most people do in fact associate the Kennedy-Johnson papers with the Democrats. It is true that the issue is blurred; it is true that people believe that we are covering something up; partisan Republicans complain repeatedly that they can't understand why we are covering up Democratic papers and, of course, finally this has an impact on the office of the Presidency, its credibility and the credibility of government, generally.

As for the credibility of government, a case can be made that it has already reached its low point. This incident simply confirms what many people think anyway. According to Lou Harris' theory (and Howard Smith's interestingly enough) at least 50% of the American people at least will always believe what any President tells them. If the President goes on television and makes a flatout statement, people tend to want to believe it. They will still answer questions in polls that the government is not telling them all that it should or all that it knows, but they nonetheless will believe the President. I question, therefore, whether this incident has caused any further serious erosion of Presidential credibility -- maybe some but not a great deal -- and there are ways we can rebuild President Nixon's credibility. Indeed this incident may offer us an opportunity to do so by deed rather than by words.

For example, if we were to release authentic documents that demonstrate how the President arrived at his change in Vietnam policy (for example, a study of decisions leading up to the November 3 speech) we would not have to say that we are being candid, that we

are not covering up, we would prove that we are not. The more we talk about the fact that we are telling the truth, that there is no "credibility gap", that we are not misleading the people, the more people tend to be suspicious. In other words, talking about the fact that we are telling the truth, may in actual fact, be counter productive. But doing things that demonstrate that we are telling the truth and that we have been telling the truth can be very powerful. The Kennedy-Johnson papers give us a real opportunity in this regard in that it permits us to do things that will be in vivid, sharp public contrast with the whole Kennedy-Johnson affair.

Further, we must make every effort to keep ourselves out of the controversy over the Kennedy-Johnson era. We must not attack LBJ; we must not defend LBJ; we must subtly, but very effectively encourage and fuel the division within the Democratic ranks without getting caught, because that simply would inject us back into it.

If we keep ourselves out of the fight over the Kennedy-Johnson papers and the issues they raise and at the same time demonstrate not by words but by deeds, our own candor and credibility, then it is my opinion that the President's credibility and indeed the government's credibility can be enhanced by this entire episode, rather than hurt by it. We can be the ones that restored credibility, honesty and candor to government and the contrast with the prior Administration is very dramatic and effective.

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D. THE ELLSBERG PROSECUTION

There is another opportunity in this whole episode, that is the prosecution of Ellsberg. It could indeed arouse the heartland which is at present not very excited over the whole issue.

First of all, he is a natural villain to the extent that he can be painted evil. We can very effectively make the point of why we did what we did with the New York Times; we can discredit the peace movement and we have the Democrats on a marvelous hook because thus far most of them have defended the release of the documents. If we can change the issue from one of release of the documents to one of the theft of the documents we will have something going for us.

Secondly, a prosecution of Ellsberg can help taint the press (to the extent that that in fact helps us). If he indeed conspired with members of the press and he is painted black, they too will be painted black.

Third, this is a clear, clean, understandable issue. People can relate to it.

Fourthly, the prosecution of Ellsberg protects the credibility of our case against the New York Times. It will dramatize why we had to go to court, it will make the case clear to the public that the release of classified information can be harmful.

Fifth, it helps keep the whole Kennedy-Johnson papers issue very much alive and on the front pages.

Finally, this is a motivational issue, particularly if the Democrats are foolish enough to defend him.

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E. KEEP THE DEMOCRATS DIVIDED AND FIGHTING

This should happen anyway but we would be foolish to simply lie back and assume it. We should ensure in subtle ways that it happens. This needs to be planned out with great thoroughness and executed with utmost care. The greatest risk would be to get caught in what we are doing or to have our efforts become obvious. I have not yet thought through all of the subtle ways in which we can keep the Democratic party in a constant state of civil warfare, but I am convinced that with some imaginative and creative thought it can be done.

Some examples do come to mind. The continued release of documents will keep the issue very much alive. We might of course orchestrate carefully and quietly a defense of LBJ; to the extent that his stock rises those who have now disowned him lose a valuable constituency. We could of course plant and try to prove the thesis that Bobby Kennedy was behind the preparation of these papers because he planned to use them to overthrow Lyndon Johnson (I suspect that there may be more truth than fantasy to this.)

The Ellsberg case, if pressed hard by us, will of course keep the issue alive. Developing the case factually of why the President changed the policies will continually bring the papers themselves back into the public spotlight.

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We should encourage, not discourage, the Hill from carrying on intensive hearings and well publicized hearings over the Kennedy-Johnson papers and over how we got into Vietnam. If the Hill during the Fall makes a major production out of an investigation of why we got into Vietnam at the same time the President is winding the war down in Vietnam the contrast is once again very vivid. We don't need to spell it out; the public is smart enough to see on the one hand the horrors ;of how we got in and on the other hand, the skill with which the President is managing to get us out. I realize that Kissinger and others in the establishment at State and Defense will fight hard against these hearings. In my view, it can be in our political interest that they go on and be well publicized.

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We can, of course, play up the Humphrey and Muskie comments of recent weeks which as time passes are going to look more and more stupid.

We can encourage through our political operation resolutions in various Democratic state conventions, damning the Johnson-Humphrey Administration and denouncing the Humphrey-Muskie ticket which ran in 1968 -- defending the Johnson Administration.

In short, there is a wide open political field which we can exploit if we play it right and keep ourselves out of it.

F. CONCLUSION

In recent days, an interesting collection of people whose political judgment I respect, have separately stated that they believe this incident has re-elected the President. While this is an obvious overstatement it does show how strongly people believe the politics of this issue will cut. People who have said this range from Lou Harris on one end of the spectrum to Bill White on the other, with Dave Bradshaw and a few of my liberal congressional friends tossed in the middle. (Bradshaw by the way is a very shrewd politician with excellent political instincts, whose judgment I have always found to be very close to the mark)

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In short, I think it is very clear that there are profound political implications, that this offers us opportunities in ways we perhaps did not initially appreciate, that we can turn what appeared to be an issue that would impair Presidential credibility into one that we can use by effective contrast to improve the credibility of this Administration; and further, that it is a tailor-made issue for causing deep and lasting divisions within the Democratic ranks,

For this reason, I feel that we must not move precipitously or worry about tomorrow's headlines. We must keep our eye on the real target: to discredit the Democrats, to keep them fighting and to keep ourselves above it so that we do not appear to be either covering up or exploiting.

The foregoing thoughts need a bit of refinement, need to be sifted carefully through the staff, need a lot of creative input added and then our strategy needs to be very carefully executed. While I detest the term, this is one issue that calls for a full fledged, carefully thought out "game plan" that we pursue to the hilt.

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Mr. DOAR. I ask you, Mr. Colson, if you, following the time that the Pentagon papers were published, if you received an assignment from the President with respect to the Pentagon papers matter?

Mr. COLSON. Well, following the publication of the Pentagon papers, yes, a number of members of the White House staff, myself included, were involved in the deliberations that went on immediately following the publication of the papers as to a number of questions that were raised as a result of their publication in the New York Times and subsequently the Post, the Boston Globe. The concerns were—

Mr. DOAR. Just for the record, do you recall the date that the Pentagon papers were published?

Mr. COLSON. I think, wasn't it the 14th?

Mr. DOAR. 13th.

Mr. COLSON. 13th of June. In the week that followed the 13th of June, there was a great concern within the White House over the whole question of leaks, the protection of what was then considered, and I suppose still would be very sensitive national security matters, that the President, Dr. Kissinger, and others were concerned might be disclosed, negotiations that might be compromised.

There was a question about the legal action that could be taken to restrain the publication of the Pentagon Papers. There were questions about the completeness and accuracy of the Papers, the reasons why they had been released. The people who had been involved and the reasons for their involvement. There was a considerable concern for at least 2 weeks—there was a considerable concern for longer than that—but for at least a 2-week period.

Mr. DOAR. And during that 2-week period, did you receive an assignment to write the memorandum that has been marked Colson exhibit 1?

Mr. COLSON. Yes, sir.

Mr. DOAR. And from whom did you receive that assignment?

Mr. COLSON. Mr. Haldeman.

Mr. DOAR. What did he say to you in giving you that assignment?

Mr. COLSON. Well, the 2 weeks that had followed the publication of the papers, roughly, 2 working weeks, there had been a tremendous amount of confusion. We had been reacting to matters on a day-to-day basis. We had been concerned about the crisis of the moment. We had been concerned about the decisions that had to be made very rapidly each day. Mr. Haldeman asked me either on the 24th or possibly even the morning of the 25th if I would kind of sit back and take a little detached look at where we stood, what the implications were of all of the things that had happened, and to try to give a sort of an interview of where I believed we were at the moment, with a particular emphasis on the political aspects.

There had been a very great concern within the White House that we were seeking to restrain the publication of documents that really had no detrimental effect upon the Nixon administration, and therefore, we were kind of getting the worst of both worlds. We were seeking to enjoin the publication of newspapers, prevent newspapers from publishing documents, and yet the documents weren't in any way harmful to us politically. They were harmful to the country, and Mr. Haldeman asked me if I would just sort of sit back.

He told me the President wanted my judgment of where things stood at the moment, and my analysis, which is what I prepared, and which is what has been marked as "Exhibit 1."

Mr. DOAR. When you finished that memorandum, what did you do with it?

Mr. COLSON. I am sure I either delivered it to Mr. Haldeman or made arrangements to get it to him. As I recall, he and the President were leaving at the time, I was rushing to get this prepared, and they were leaving on a trip for that weekend, and I don't know physically how I got it to him, but I am sure I got it directly to Mr. Haldeman.

Mr. DOAR. And do you know whether or not the memorandum reached the President?

Mr. COLSON. I believe it did, Mr. Doar, because I do have a recollection of discussing some elements of the memorandum with the President.

Mr. DOAR. Was that on or shortly after June 25?

Mr. COLSON. According to the White House logs, the most logical time would be June 25, but I have no recollection of that.

Mr. DOAR. You had a long-distance conversation with the President on the afternoon of June 25; is that correct?

Mr. COLSON. Yes, sir.

Mr. DOAR. And did you discuss, with the President, the virtue or the benefit, the political benefit, to a successful prosecution of a celebrated case against an individual?

Mr. COLSON. Well, I am not sure I would characterize it exactly that way. I think one of the things that I recall discussing with the President, and I can't tell you that it was in direct relationship to this memorandum, but I do recall some discussions with the President regarding the prosecution of Daniel Ellsberg. My point of view, which I can't say the President shared, was that if we had gone to the very extensive lengths that we had to restrain publication of documents, the credibility of having done that would be impaired if we did not then prosecute the person who I think, at that point, had acknowledged that he had made copies and distributed the documents.

The President, on the other hand, was viewing this as a further potential liability to him and to the administration in terms of prosecuting someone who would then have a forum in the courts and outside of the courts to express his views, which were opposite to those of the administration. I recall those discussions. I recall at least one discussion, Mr. Doar, and it may have been in relationship to this memorandum, in which both the President and I were simply weighing the pros and cons of prosecution against Mr. Ellsberg.

Mr. DOAR. Did you discuss with the President the political advantages of such a prosecution?

Mr. COLSON. I think I may have. Certainly this memorandum does.

Mr. DOAR. And so the *Ellsberg* case, the indictments in the *Ellsberg* case were brought, the first indictments on June 28, is that correct?

Mr. COLSON. I don't recall it specifically, but I think the record reflects that it was; yes.

Mr. DOAR. In your memorandum there is discussion of the use of the *Ellsberg* case as a means of discrediting the Democratic Party. Was that matter discussed with the President?

Mr. COLSON. I can't say that that specific point was, Mr. Doar.

Mr. DOAR. And was the matter of the use of congressional hearings in connection with the whole Ellsberg matter discussed with the President?

Mr. COLSON. Yes; that was discussed from time to time with the President, and there was an interest on the President's part, on mine,

on several members of the White House staff with encouraging congressional hearings as a way in which the true facts, as we believe them to be, might be laid bare for the public record.

Mr. DOAR. Now, during that same time, did you have a discussion with the President with respect to the problem of leaks of certain classified information?

Mr. COLSON. Well, there were several discussions with the President, Mr. Doar, in which I participated, in which the President expressed very grave concerns over the consequences of continued leaks. These discussions took place in the weeks immediately following the publication of the Pentagon papers when the dominant fear within the White House on the part of the President, Dr. Kissinger, and others was that this was but one of many leaks that we anticipated would flow as a consequence of the publication of the Pentagon papers.

Mr. DOAR. And did you receive any assignment from the President with respect to that discussion or following that discussion with respect to personnel, with respect to locating a person to—well—

Mr. COLSON. I see what you are driving at. The instruction which I received that I think you are referring to, Mr. Doar, was not with respect to leaks per se. Around about this same period of time that exhibit 1 was prepared, the June 25 memorandum, the President recognized that Mr. Ehrlichman, Dr. Kissinger, and myself and others on the White House staff were consuming a lot of time in working on the Pentagon papers matter, and I use that phrase in its broadest context. All of the aspects of the Pentagon papers disclosures, all of the things were concerned about with respect to the Pentagon papers, other documents that might be released, ongoing investigations by other Federal agencies, the prospect of the congressional hearings, and it appeared to us, to Mr. Haldeman, Mr. Ehrlichman, myself, the President, that there should be one man on the White House staff assigned full time to the job of coordinating the overall effort, a lot of research involved, and it was decided around the end of June that we would try to find one person who could relieve the rest of us, and he could make this his full-time business.

Mr. DOAR. Mr. Colson, you say it was decided. Is that a—is that another way of saying the President decided?

Mr. COLSON. Well, the President, of course, makes those decisions. But, when I say it was decided, I meant that all of us felt that that was necessary and the President—

Mr. DOAR. You recommended it to the President?

Mr. COLSON. Yes; and the President wanted one person who could be, who could take this on as a full-time job.

Mr. DOAR. And he decided that a search should be made for that particular person?

Mr. COLSON. That's right.

Mr. DOAR. Did you receive an assignment from the President to search out for this particular person?

Mr. COLSON. Well, I think actually after a discussion or two with the President Mr. Haldeman asked me if I would submit recommendations of people that I thought might be available to do this job.

Mr. DOAR. And did you submit recommendations?

Mr. COLSON. Yes, I did. There is a—

Mr. DOAR. Prior to—there is a memorandum in the file in which you submit the names of a number of persons, one of whom is E. Howard Hunt.

Mr. COLSON. That's correct.

Mr. DOAR. And I will ask you whether or not you did, in fact, recommend Mr. Hunt?

Mr. COLSON. I did.

Mr. DOAR. To fill that position?

Mr. COLSON. I did.

Mr. DOAR. And could you tell the committee just what your acquaintanceship was with Mr. Hunt?

Mr. COLSON. I had known Mr. Hunt casually. I guess I perhaps met him in the early sixties. I am not sure, but I know I had gotten to know him in the mid-1960's when he and I, by happenstance, were officers of the Brown Club of Washington, D.C., an alumni club. We would have occasional lunches together, and I would see him at social functions. I knew him a little better in 1968, I guess maybe 1969 when he came to me as someone he knew and simply asked for advice on what he might do when he retired from the Central Intelligence Agency, which he was then planning to do. I did make a recommendation of him to a private, nonpolitical committee that was being organized, or it was being staffed in the District of Columbia. I saw him from time to time when he did accept a position at the Mullen Co., a public relations firm here in Washington. I had nothing to do with his obtaining that position, but once he was employed there he and Mr. Bennett, who was the chief executive of that company, would occasionally drop by my office and offer their assistance on any matters that they could be helpful with outside of the White House.

I also had two occasions to visit Mr. Hunt at his home, and that was the extent of my contact prior to July 1971.

Mr. DOAR. But can you tell us if Mr. Hunt's name came to your mind and you decided to call him and see if he would be interested in this assignment?

Mr. COLSON. Yes, the prime, the first goal, was to see if we could find someone on the White House staff who the President would know. But, I think as the record or as the memoranda reflect, there was a memo of July 2 to Mr. Haldeman in which I recommended several people in addition to Hunt.

Because I knew Hunt was available I did call Hunt on July 1 and recorded the phone conversation so that Mr. Haldeman could personally get an impression of the man from the conversation I had in which I asked him some probing questions just to get the feel of him, and his disposition. I sent that—

Mr. DOAR. Could I just interrupt you a minute?

Mr. COLSON. Yes, sir.

Mr. DOAR. The committee members have your memorandum of July 2, 1971, to Mr. Haldeman, as well as the recorded conversation attached thereto of July 1, 1971, with Mr. Hunt. And I would like, with the chairman's permission, to have this marked as Colson exhibit 2.

The CHAIRMAN. It will be so marked.

[The memorandum and transcript referred to were marked Colson exhibit No. 2 and follows:]

[Colson Exhibit No. 2]

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EXHIBIT No. 148

July 2, 1971

MEMORANDUM FOR:

H. R. HALDEMAN

FROM:

CHARLES COLSON

SUBJECT:

Howard Hunt

The more I think about Howard Hunt's background, politics, disposition and experience, the more I think it would be worth your time to meet him. I had forgotten when I talked to you that he was the CIA mastermind on the Bay of Pig's. He told me a long time ago that if the truth were even known, Kennedy would be destroyed.

If you want to get a feel of his attitude, I transcribed a conversation with him yesterday on it. Needless to say, I did not even approach what we had been talking about, but merely sounded out his own ideas.

Conversation with Howard Hunt, July 1, 1971

- H. Hello, young man, how are you?
- C. Well, I'm doing alright. Haven't talked to you in a dog's age.
- H. That's right, too long.
- C. Tell me something, as a good observer of the political scene, what do you think of this Ellsberg prosecution?
- H. I think they are prosecuting him for the wrong thing, possession. Isn't there a phase of the law that, aspect of the law, that focuses it on the theft aspect rather than just mere possession?
- C. I don't know, it may be that there can be stiffer charges as the investigation develops.
- H. I want to see him prosecuted. I do, that's how I feel about it: what I think is good for the Administration may very well be two different things and I gather that's what you're asking.
- C. Do you think this guy is a lone wolf?
- H. Yes, I do with the exception of the eastern establishment which certainly aided and abetted him. I think the whole thing was all mapped out well in advance. Don't you?
- C. Do you think conspiracy here of people, you know, you've mentioned before the bureaucrats conspiring against the President?
- H. Yea, yea, well when I first heard about this I assumed that Mort Halpern was responsible and then his name came out but in an ancillary way. Of course, I never knew the guy. One of the things that's fascinated me about Ellsberg is that he is an employee of CENIS—
- C. Who?
- H. The Center for International Studies at MIT which of course for many years was funded by the CIA and—
- C. Not any more?
- H. Well, that I don't know. It may be like Radio Free Europe and Radio Europe, those are things of the past. But it seems to me indispensable that he be prosecuted, but how he's going to avoid prosecuting Artun Sultzberger and people like that.
- C. Why avoid it?
- H. Well, I don't know. If there is a good clear case rather than an "iffy" one I certainly would go for it. I think that the temper of the country is certainly such that it's required. I think there is a great deal of dismay and concern among the, let's say, the silent majority, that is our principal constituency that this hasn't been done, that it be expanded to include these people.
- C. One question that occurs to me. This thing could go one of two ways. Ellsberg could be turned into a martyr of the new left (he probably will be anyway), or it could be another Alger Hiss case, where the guy is exposed, other people were operating with him, and this may be the way to really carry it out: we might be able to put this bastard into a helluva situation and discredit the new left.
- H. It would a marvelous way if we could do it, but of course, you've got the *Times* and the *Post* and the *Monitor* and all sorts of things.
- C. They've got to print the news, you know, if this thing really turns into a sensational case.
- H. Well, you of course, you're in a much better spot to see how the Administration stands to gain from it and at this point, I would be willing to set aside my personal yen for vengeance to make sure that the Administration profits from this. Now it's turned out, I gather from noonday news reports, it's become apparent that JFK was the guy who slid us into this thing back in May or so of 1961.
- C. Hell, you know that from where you were.
- H. I knew that, yes, but it had never surfaced before.
- C. Let me ask you this, Howard, this question. Do you think with the right resources employed that this thing could be turned into a major public case against Ellsberg and co-conspirators?
- H. Yes, I do, but you've established a qualification here that I don't know whether it can be met.
- C. What's that?
- H. Well, with the proper resources.
- C. Well, I think the resources are there.
- H. Well, I would say so absolutely.

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- C. Then your answer would be we should go down the line to nail the guy cold?
- H. Go down the line to nail the guy cold, yes. As, and you know, many people, far many more than myself have referred to the Otepka case you know as, by way of envidious [sic] comparison. Here Otepka gave a few documents to a legally constituted Senatorial Committee and he's been bounded ever since and as Jack Kilpatrick said a few nights ago in his column, it depends on whose ox is being gore [sic].
- C. Well, that's right. They pilloried [sic] this guy for a lot less than what these guys did. I just have the feeling that the Administration vs. the press issue is now over with and for better or worse, I don't think it hurt us at all, frankly because anybody who would turn against us because we're anti-press, we've already turned them against us.
- H. You're absolutely right.
- C. And that at this point, the profit to us in nailing any son of a bitch who would steal a secret document of the government and publish it or would conspire to steal it
- H. . . . or aid and assist in its
- C. And that the case now can be made on that grounds where I don't see that we could lose.
- H. It has to be made on criminal grounds and
- C. It also has to be this case, won't be tried in the court, it will be tried in the newspapers. So it's going to take some resourceful engineering to
- H. Well, I would think that Jack Kilpatrick would be very amenable to an approach of this nature. You probably know him, don't you?
- C. Oh, sure, I know all those guys well.
- H. I saw him on a hastily convened television panel against Wechsler and Kilpatrick is awfully, awfully good on this. He's a very clear thinker, he's got a legal background, too, I believe.
- C. Well, I just wanted to get your reaction to this out of curiosity and we hadn't talked about it.
- H. I want to see the guy hung if it can be done to the advantage of the Administration.
- C. I think it can be done, I think there are ways to do it and I don't think this guy is operating alone.
- H. Well, of course, he isn't operating alone. He's got a congeries [sic] of people who are supporting him, aiding and abetting him, there's no question about it.
- C. But, I'm not so sure it doesn't go deeper than that.
- H. Oh, really? You're thinking of like O'Brien or
- C. Oh no, I'm thinking of the enemy
- H. . . . the real enemy. Well, of course, they stand to profit more, the most, no question about it. You've got codes and policy making apparatus: stripped bear for public examination, all that sort of thing. Supposing we could get a look at these documents from inside the Kremlin or Peking. Helms could be retired forthwith and you'd cut down 90% of our expenditures over across the river. That's right, you won't need them anymore. If you've got that kind of thing. You don't need much more.
- C. I think there is a fertile field here and I just thought I'd try it out on you to see what you thought of it.
- H. Well, as I say. I'm of two minds on it. One, visurally I want to see this guy hung. My more cautious and reflective self says "let's not do it unless we can do it to the profit of the Administration".
- C. Absolutely. What do you think of doing, the idea of declassifying a lot of these old documents now?
- H. I think it's a fine idea. I'm all in favor of it and I would particularly like to see the Bay of Pigs stuff declassified including the alleged agreement that Castro made with JFK.
- C. Because you were a part of that and knew it was a phoney [sic].
- H. Sure.
- C. Listen, I think nobody is going to get hurt by this except the other side.
- H. Let's hope so. This has been very depressing as you can imagine to me and I've just been assuming that you have been involved up to you know what in this whole thing so far.
- H. Weren't you the guy who told me, maybe the last time we were up to your house for dinner, that if the truth ever came out about Kennedy and the Bay of Pigs, that it would just destroy them?

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- H. Yea, I've written my memoirs of that, but, of course, I never published them. I've just been holding them for the edification of my heirs and assigns and possibly some university research institute eventually after I. . . .
- C. Might want to talk to you about that. Howard, I'll be back to you.
- H. Please do, and listen, I brought up about a month ago, several many pounds of fine, stone crabs. When are you going to come over and have them. . . .
- C. Well [sic] do it. I've never had so little time in my life.
- II. Okay, thanks for calling.

Mr. DOAR. That's the document you have right before you, and if your attorney will like to write Colson exhibit 2 on there, everybody will keep the record straight.

Now, let me ask you this with respect to the transcribing of that conversation: was your office set up to transcribe conversations, telephone conversations?

Mr. COLSON. My office isn't. The telephone was connected to an IBM dictating machine so that I could turn a button on the IBM dictating machine and thereby record the conversation.

Mr. DOAR. Did you record all conversations that you had?

Mr. COLSON. No, sir. I recorded only those conversations whereas, in this instance, I wanted to transmit the full transcript to someone else in the White House so that they could read it directly rather than my trying to recreate it in a memorandum. I did it when there were what I would call sensitive phone calls, where matters that I felt it was important to preserve a record of, and I did it whenever someone would call in and want to read a lot of data over the telephone. It was quicker to do than to have a secretary on the line transcribing it.

Mr. DOAR. Now, if you wanted the recording to reach the President, can you tell me if it is not a fact that you would send it to Mr. Haldeman?

Mr. COLSON. If I wanted a recording to reach the President?

Mr. DOAR. The transcript to reach the President?

Mr. COLSON. Well often, Mr. Doar, I would send things to Mr. Haldeman when I knew they were intended for the President, generally if Mr. Haldeman asked me to do so. Generally if Mr. Haldeman asked for the memorandum and said the President wanted it, I would nonetheless address it to Mr. Haldeman since he was the one who had asked for it.

Mr. DOAR. Now, I would like to ask a couple of questions about two questions that you had in this conversation with Mr. Hunt.

Directing you to the first page of the recorded conversation, 3878, and about a little over half the way down the page, you give a statement by saying that:

One question that occurs to me. This thing could go one of two ways. Ellsberg could be turned into a martyr of the new left (he probably will be anyway), or it could be another Alger Hiss case, where the guy is exposed, other people were operating with him, and this may be the way to really carry it out: we might be able to put this bastard into a helluva situation and discredit the new left.

Do you remember that question you asked or statement you made to Mr. Hunt?

Mr. COLSON. I don't independently recall it, but I see it here, and I am sure I said it.

Mr. DOAR. Who among President Nixon's administration was the specialist or the expert on the Alger Hiss case?

Mr. COLSON. The resident expert on the *Alger Hiss* case was the President himself.

Mr. DOAR. And down a little further down close to the end of the page—

Mr. COLSON. It was not uncommon, Mr. Doar, if I could interrupt you, to use the *Alger Hiss* case as a benchmark for certain things that we were concerned with, because all of us who were in daily contact

with the President from time to time received instructions to read certain portions of "Six Crises." I think I read it 14 times.

Mr. DOAR. Now, down at the bottom of the page, or close to the bottom of the page, you asked Howard Hunt another question, and you say, "Let me ask you this, Howard, this question." This is about the seventh line up from the bottom of the page, members of the committee. "Do you think with the right resources employed that this thing could be turned into a major public case against Ellsberg and coconspirators?"

Do you remember that?

Mr. COLSON. I don't, but I certainly accept this as the question I put to him.

Mr. DOAR. And when you used the term "right resources," what did you mean?

Mr. COLSON. Well, I am not sure that I—this conversation took place 3 years ago, and I am not sure what I was referring to, but I suspect that I meant with the proper research, with the proper background into the facts, and through the offices of the congressional committee—what you don't know, of course, is that prior to this time, there had been a lot of information that the President and I had received about Dr. Kissinger—about Dr. Ellsberg from Dr. Kissinger, and I assumed, of course, when I was having this conversation that I knew a lot more in terms of the information that would be available. I suspect that's what I was talking about.

Mr. DOAR. Well, when you talked about a major public case, is it fair to say that you were contemplating that the case not only would be tried in the courts, but it would be tried in the newspapers, and any other area of public opinion where you were able to bring the resources of the White House against?

Mr. COLSON. Well, I think if you read on in the transcript you will say that I am not concerned about the case in the courts, that I didn't think that was the real focus of the controversy with Dr. Ellsberg, that I felt the case would be tried in the public press and not in the courts.

Mr. DOAR. Was that a fair statement of your view?

Mr. COLSON. My view was always that, that it would be a public confrontation with Dr. Ellsberg and not a—that the real issue would not be settled one way or another by his prosecution, but rather by the public debate that he was engendering by the statements and speeches he was making.

Mr. DOAR. Is it fair to say that Mr. Hunt was to be employed to help assemble the resources to carry out that fight?

Mr. COLSON. Yes, sir.

Mr. DOAR. Now, following this memorandum, can you tell us whether or not you did meet with Mr. Hunt?

Mr. COLSON. My diary reflects that I met with Mr. Hunt on the 6th of July and discussed with him for an hour or more the kind of assignment that we had in mind for him to take on—on the White House staff as a consultant. That appears to be the first time I met with him from this conversation—from the date of this conversation.

Mr. DOAR. And after you met with him, did you recommend him to Mr. Ehrlichman and Mr. Haldeman?

Mr. COLSON. I recommended him to Mr. Ehrlichman and asked Mr. Ehrlichman to interview him, because I felt that Mr. Ehrlichman should, or Mr. Haldeman should, approve the man before he was hired.

Mr. DOAR. And do you know whether or not Mr. Hunt met Mr. Ehrlichman?

Mr. COLSON. Yes. I took Mr. Hunt to Mr. Ehrlichman's office on the morning, I believe, of July 7, and I introduced Mr. Hunt to Mr. Ehrlichman at that time.

Mr. DOAR. And did Mr. Ehrlichman decide to hire him that day?

Mr. COLSON. Yes, sir.

Mr. DOAR. And what were the terms and conditions of his employment?

Mr. COLSON. Yes; I believe he was hired as a per diem consultant. I don't know the pay level, but it was to be paid when employed. If there is a term for that, I can't think of what it is.

Mr. DOAR. To whom was Mr. Hunt to report?

Mr. COLSON. Well, initially—

Mr. DOAR. Initially.

Mr. COLSON. Initially he was to report to me, and did, in fact, primarily because I was the one member of the White House staff who had been involved with this matter who remained in Washington. As I recall, Mr. Haldeman and the President were in California, and Mr. Ehrlichman was leaving for California on the afternoon of the 7th.

Mr. DOAR. And did you report to the President directly that you had hired Mr. Hunt?

Mr. COLSON. I don't—I can't pinpoint the conversation, but I am confident that I did tell the President that we had found a man and brought him on the staff, because I know that had been an area of concern to the President, that we not continue to divert the resources of the people who had other responsibilities. I can't tell you whether I told him who the man was, although I may have.

Mr. DOAR. And were you, during the months of July and August, in frequent contact with the President?

Mr. COLSON. Well, I think the logs reflect frequent phone conversations when he was out of town, and I guess frequent meetings when he was there, frequent to maybe sometimes two times a day or three, and other times skip a day and three or four phone calls.

Mr. DOAR. Is it fair to say one of the subjects that was discussed was the Ellsberg matter with the President?

Mr. COLSON. Yes, it had been discussed, of course, extensively earlier on from June 13 forward. It became less frequent as time passed in July, and then very infrequent in August in 1971.

Mr. DOAR. Now, did you sometime, during around the middle of July, receive word from Mr. Ehrlichman about an assignment to a particular unit of the White House for Mr. Hunt?

Mr. COLSON. Yes, sir. Mr. Hunt had been basically doing some research for me at Mr. Ehrlichman's direction, had been doing some interviews. About mid-July—I would place it between the 17th and 20th, maybe the 15th and the 20th—Mr. Ehrlichman called me from San Clemente, told me that there had been a meeting with the President and with other people concerned with the Pentagon Papers in-

vestigation and the Ellsberg investigation, that the President had decided to establish a special unit, that it would be under the direction of Mr. Krogh, and that I should assign Mr. Hunt to Mr. Krogh since Mr. Krogh would be responsible for the conduct of the special unit.

Mr. DOAR. And did you make that assignment to Mr. Krogh?

Mr. COLSON. Yes, sir. On the morning of July 22d I met, or my calendar shows, and I recall meeting with Mr. Hunt and Mr. Krogh. And the two had not met. I got them acquainted with one another. Mr. Krogh explained in general terms what his special unit responsibilities would be. I told Mr. Hunt that he would thereafter be reporting to Mr. Krogh, and would be part of the special unit for any assignments he received there, although he was to continue to report back to me on the research that he was doing into the Pentagon Papers, their completeness and accuracy, and particularly some of the areas that had significant gaps in them.

He was doing, I guess you would say, a political analysis which he would continue to deliver, and I would continue to receive that product, but Mr. Krogh would be responsible for his work in the unit.

Mr. DOAR. Now, directing your attention to a memorandum of July 28th, which I asked be marked Colson Exhibit 3, you have before you a memorandum from Mr. Hunt to yourself dated July 28th, which the subject is entitled, "Neutralization of Ellsberg," and I ask you how it happened that Mr. Hunt sent that memorandum to you in view of the fact that he had been assigned prior to that time to Mr. Krogh?

[The memorandum referred to above was marked Colson Exhibit No. 3 and follows:]

[Colson Exhibit No. 3]

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EXHIBIT NO. 150

EYES ONLY

July 28, 1971

MEMORANDUM FOR:

CHARLES COLSON

FROM:

HOWARD HUNT

SUBJECT:

Neutralization of Ellsberg

I am proposing a skeletal operations plan aimed at building a file on Ellsberg that will contain all available overt, covert and derogatory information. This basic tool is essential in determining how to destroy his public image and credibility.

Items:

Obtain all overt press material on Ellsberg and continue its collection;

Request CIA to perform a covert psychological assessment/evaluation on Ellsberg;

Interview Ellsberg's first wife;

Interview Ellsberg's Saigon contacts: the restaurant owner, Nicolai, and his mistress whom Ellsberg coveted;

Request CIA, FBI, and CIC for their full holdings on Ellsberg;

Examine Ellsberg personnel files at ISA (Pentagon) and the Rand Corporation, including clearance materials;

Obtain Ellsberg's files from his psychiatric analyst;

Inventory Ellsberg's ISA and Rand colleagues; determine where they are, and whether any might be approachable.

I realize that, as a practical matter, not all the foregoing items can be accomplished; even so, they represent desiderata.

Mr. COLSON. I can only speculate, Mr. Doar. When I assigned Mr. Hunt to Mr. Krogh, he, Mr. Hunt, was not particularly happy with that assignment. He had come into the White House—when I initially met with him I told him that he would be preparing materials for congressional hearings, he would be dealing with the Congress, he might be dealing with Government agencies and pulling together everything that we had and knew about the Pentagon papers controversy. And I think on the day that I assigned him to Mr. Krogh he seemed disappointed that he would not be working for me, whom he knew, and seemed disappointed that he would be put into sort of a bureaucratic compartment, so to speak, under Mr. Krogh, whom he did not know. And I can only speculate that Mr. Hunt was trying sort of to continue to involve me because he wanted to demonstrate to me what he was doing, or wanted to keep me involved in his work.

Mr. DOAR. Now, when you got this memorandum, can you tell me whether or not you—did you read it?

Mr. COLSON. I don't have any recollection of reading it, and as a matter of fact, when I found it in my files at the time that I was leaving the White House I read it carefully at that time. I thought at the time that I had not read it.

Mr. DOAR. You were still, as of the 28th of July, still interested in the *Ellsberg* case?

Mr. COLSON. I had a lot of other things to do at that time.

Mr. DOAR. That isn't what I asked you. I just asked you if you were still interested in the *Ellsberg* case?

Mr. COLSON. Mildly.

Mr. DOAR. Mildly? In this memorandum by Mr. Hunt there is a suggestion of obtaining a psychological or psychiatric profile of Mr. Ellsberg. Do you recall that?

Mr. COLSON. Do I recall the suggestion to do it?

Mr. DOAR. Yes.

Mr. COLSON. Yes, sir. I don't recall it in the context of this memorandum, but I do recall Mr. Hunt at one time, before or after this memorandum, describing to me the CIA's capability for performing psychological profiles. And he told some stories to me of psychological profiles that had been conducted in the past, how successful they had been, and I remember him discussing that.

I would have to say that I assume in the context of Ellsberg, but I can't be sure.

Mr. DOAR. Did he discuss with you the need in connection with that psychiatric profile of obtaining Ellsberg's files from his analyst?

Mr. COLSON. I certainly don't recall him doing so, sir. There were three items in this memo that I recall Hunt at one time or another discussing with me, and that's not one of them.

Mr. ADAMS. Excuse me, Mr. Doar, it may be helpful to draw your attention to two portions of Mr. Hunt's testimony in executive session before the Senate Select Committee when he was asked about prior conversations with Mr. Colson leading up to the July 28 memorandum and the psychological profile. He was asked by Mr. Armstrong—

Mr. RANGEL. Mr. Chairman, is Counsel under oath here?

The CHAIRMAN. No, I don't believe so.

Mr. DOAR. I don't understand, Counsel, that this is a proper part of the proceedings.

Mr. ADAMS. I am referring to portions of the Senate Select Committee record.

Mr. DOAR. I understand that, but perhaps you might let the chairman decide whether or not that is appropriate.

Mr. McCLORY. Mr. Chairman, it would seem to me if there was a clarification to be provided by Counsel—

The CHAIRMAN. I think he could call this to the attention of Mr. Colson and Mr. Colson, if he has something to direct to us, fine. Mr. Colson is under oath.

Mr. McCLORY. Mr. Chairman, the question that I have is if there is something that's relevant and clarifying, if he wants to refer us to part of the Senate Select Committee record, I would be interested in knowing what it is myself.

The CHAIRMAN. Well, Mr. Colson can consult his Counsel and refresh his recollection.

Mr. COLSON. Pardon me, sir.

The CHAIRMAN. I said you may refresh your recollection.

Mr. COLSON. I think what Mr. Adams was attempting to do was simply to point out Mr. Hunt's testimony on two occasions to the Senate Select Committee in which he testified that he had not discussed those items with me prior to submitting this memorandum to me, for whatever relevance that is to the committee.

Mr. DOAR. Now, Mr. Colson, on the 3d of—

Mr. BUTLER. Excuse me. Can you tell us where, the page reference?

Mr. COLSON. Well, let's see. It was in his July 26th, 1973 testimony before the Ervin committee in executive session. I think the page reference here is page 146. I don't know if that conforms to the committee's prints of the same interviews. It is page 66 and 67, and I would assume we are referring to what is—I'm sorry, I'm sorry, that was before the grand jury, pages 66 and 67 on August 14, 1973, was the second reference. The first was page 146 of the Ervin committee executive session transcript.

Mr. DOAR. Now, showing you a memorandum dated August 3, 1971, which I will ask to be marked Colson exhibit 4—

Mr. DANIELSON. Mr. Chairman?

The CHAIRMAN. Mr. Danielson.

Mr. DANIELSON. Point of clarification. I don't believe that we have the previous memo marked Colson exhibit 3.

Mr. DOAR. Well, I would like to have the previous memorandum of July 28 marked Colson exhibit 3.

The CHAIRMAN. They will be so identified.

[The memorandum referred to was marked Colson exhibit No. 4 and follows:]

[Colson Exhibit No. 4]

3893

EXHIBIT NO. 154

THE WHITE HOUSE

WASHINGTON

August 3, 1971

MEMORANDUM FOR: CHARLES COLSON

FROM: BUD KROGH AND DAVID YOUNG *BY*

SUBJECT: REFERENCE THE MEMORANDUM TO YOU
FROM HOWARD HUNT DATED JULY 28, 1971
ON NEUTRALIZATION OF ELLSBERG

We already have in train the following projects mentioned in the Hunt memorandum.

(1) A complete psychological assessment and evaluation of Ellsberg by CIA.

(2) We are continuing to collect all press material on Ellsberg.

(3) There have been several interviews with Ellsberg's first wife, and we are in the process now of getting transcripts.

(4) We have asked the FBI to pull together all their holdings on Ellsberg.

We will look into the other suggestions which Hunt made.

Mr. DOAR. This is a memorandum—Colson exhibit 4 is a memorandum from Mr. Krogh and Mr. Young to you. And I want to ask a question with respect to the reason or the procedure for Mr. Krogh and Mr. Young to report to you about this matter at this time.

Mr. COLSON. Well, we missed one step in the chain of events, Mr. Doar. When I received this memorandum from Mr. Hunt, I believe what I did was to write across the top of it, "To Bud Krogh: This is something for you to handle or this is your business," or "You take care of this," or I referred to the July 28 memo which is committee exhibit 3, I referred over to Mr. Krogh because this was, of course, now his responsibility, as Mr. Ehrlichman had instructed me. Apparently Mr. Krogh and Mr. Young responded to whatever it was that I wrote on the top of the original of the July 28 memo. I am assuming that's how I referred it to him, because my chron files did not show any memorandum of transmittal, and I just assume I wrote across the top, which I frequently did.

Mr. DOAR. But, at any rate, within a matter of 4 or 5 days Mr. Krogh and Mr. Young reported back to you about that memo?

Mr. COLSON. They responded to the memo mentioning four things which they already had in train, as they put it.

Mr. DOAR. Now, I want to ask a question about whether or not on June 3 of this year you pled guilty to willfully and knowingly endeavoring to obstruct justice in connection with the prosecution of Daniel Ellsberg?

Mr. COLSON. Yes, sir, I did.

Mr. DOAR. And I would like to ask you also whether or not in connection with that plea of guilty that you admitted that in July and August 1971, you endeavored to and did release defamatory and derogatory allegations concerning one of the attorneys engaged in the legal defense of Ellsberg?

Mr. COLSON. Yes, sir.

Mr. DOAR. For the purpose of publicly disseminating said allegations, the known and probable consequences of which would be to obstruct the conduct and outcome of the prosecution?

Mr. COLSON. Yes, sir.

Mr. DOAR. Did you also in connection with your plea admit that in July and August 1971, you endeavored to obtain and release confidential and derogatory information concerning Ellsberg, including information in the psychiatric files of Ellsberg for the purpose of publicly disseminating such information, the known and probable consequences of which would be to obstruct the criminal prosecution?

Mr. COLSON. I think if you are reading from the information, that is what I pleaded to.

Mr. DOAR. That's a fair and accurate summary of the plea?

Mr. COLSON. That is what I pleaded to, yes, sir.

Mr. DOAR. Now, at the time that you were sentenced, I want to ask you whether or not you made this statement in open court:

As to the specific offense charged the President on numerous occasions urged me to disseminate the damaging information about Daniel Ellsberg, including information about Ellsberg's attorneys and others with whom Ellsberg had been in close contact. I endeavored to do so, and willingly.

Did you make that statement?

Mr. COLSON. Yes, I did, Mr. Doar.

[Material unrelated to testimony of witness deleted.]

Mr. DOAR. Now, turning back to August of 1971, I would like to show you two more memorandums, one from Krogh and Mr. Young for John Ehrlichman, and the other of August 24, which is a memorandum from Ehrlichman to yourself, August 24. And if we could make those Colson exhibits 5 and 6.

The Chairman. They will be so identified.

[The memorandums referred to above were marked Colson exhibit No. 5 and exhibit No. 6 and follows:]

[Colson Exhibit No. 5]

August 12, 1971

MEMORANDUM FOR JOHN ERRLICHMAN

WH

FROM: BUD KROGH AND DAVID YOUNG

003030

Enclosed are three memoranda. The first is a preliminary report on where we are on the Ellsberg matter; the second is a report on the investigations we have run on the Tad Szulc article and the third is a general memorandum on the press and the bureaucracy.

We were also told by Colson that the President was after him to get out something on the Pentagon Papers. Howard Hunt is in the process of trying to put something together on Boudin, Ellsberg's attorney; and we will keep you posted on any developments.

[Colson Exhibit No. 6]

THE WHITE HOUSE

WASHINGTON

August 24, 1971

EYES ONLY

MEMORANDUM FOR: CHARLES COLSON
 FROM: JOHN D. EHRICHMAN

The attached memorandum by Howard Hunt should be useful in connection with the recent request that we get something out on Ellsberg.

delivered to Terhove?

8/26

*File + Settle
 Richardson Preuss*

But there were other episodes extending over more than three decades, some known to the public -- others little noticed, or unrevealed -- all forming Boudin's unique reputation as an articulate and aggressive advocate of ultra-leftist causes.

Born in Brooklyn in 1912, of parents who emigrated from Russia and Austria, Leonard Boudin received his law degree from St. John's University in 1935. His career seemed unremarkable until 1941 when Boudin signed a public petition supporting and defending the CP/USA. During World War II, he worked for the National War Labor Board. Subsequently, Secretary of State John Foster Dulles was to charge that in the 1930's and 1940's Boudin had been a [concealed] member of the Communist Party as well as a member of the Young Communist League. In 1947, Boudin became a faculty member at the Jefferson School of Social Science, an institution listed by the U. S. Attorney General as Communist. Significantly, although Boudin once testified that he had not been a member of the Communist Party since 1954, he would not elucidate on previous years.

He became attorney for Judith Coplon during her long trial for espionage, was counsel for the Emergency Civil Liberties Committee (a CP front), and acted as attorney for the Communist front group, Veterans of the Abraham Lincoln Brigade (of the Spanish Civil War).

So highly regarded is Boudin's talent for advocacy that Leonard Boudin is now visiting professor at Harvard's prestigious Law School, where his son

Michael, gained distinction as editor of the Law Review.

W/H

Louis Boudin, Leonard Boudin's uncle, was long involved in radical and CP matters as attorney for Earl Browder, while Browder was leader of the CP/USA and became the CP's leading authority on labor law.

As for Boudin himself, even a partial roster of his left-wing and Communist associations is remarkably extensive:

America-Russia Institute

National Council American-Soviet Friendship

002445

National Council of the Arts, Sciences and Professions

Harry Sacher

Paul Robeson

National Lawyer's Guild

American Committee for the Protection of Foreign Born

United Office and Professional Workers of America

Rockwell Kent

Rev. Philip Berrigan and the East Coast Conspiracy

Cedric Belfrage

Science and Society magazine

The Rosenberg Family

Citizens Committee for Constitutional Liberties

Emergency Civil Liberties Committee

The Cuban Revolutionary Government

The Black Panther Party

W/H

*Boudin was attorney for Paul Robeson when the one-time Stalin Prize winner applied for a passport to travel abroad.

WH

*In 1968, Boudin's name appeared in a New York Times ad soliciting contributions for Black Panther leader Eldridge Cleaver.

*Boudin represented Alger Hiss in Hiss' attempt to secure a passport for foreign travel following his release from prison.

002446

In more recent times, Boudin and his law firm, Rabinowitz, Boudin and Standard, were involved in the [Columbia University radical disruptions] and the defense of draft evaders and Black Muslims accused of attacks on FBI employees. Both Boudin and his law partner, Victor Rabinowitz, are long-time members of the National Lawyers Guild, a CP front organization and foremost legal bulwark of the CP/USA. Although Rabinowitz is believed not to have been an active CP member for several years, he continues to hold high offices in the National Lawyers Guild.

As long ago as 1957, the House Committee on Un-American Activities noted that the National Lawyers Guild never failed to rally to the legal defense of the Communist Party and its members, including known espionage agents.

Probably with some precision, The Village Voice described Boudin as "the daddy of all practicing Leftists."

WH

... - since discrimination not always apparent in some of the litigation it handles, the American Civil Liberties Union ceased representing Georgia Legislator-elect Julian Bond when Leonard Boudin joined the legal effort to seat Bond in the Georgia Legislature.

Agent for Castro

After service to Castro's revolutionary 26th of July Movement, prior to Batista's overthrow, Boudin's firm was selected in 1960 by Fidel Castro to represent the Cuban Revolutionary Government in litigation arising from confiscations, ship seizures and problems involving the Cuban Mission to the United Nations. (During their first 4 years representing Fidel Castro in the United States, fellow lawyers say the firm collected nearly \$400,000 in fees and expenses from the Cuban Government.) Despite this open and lucrative relationship with his Cuban client, Boudin fought registration as an agent of the Castro Government until finally forced to register by Supreme Court decree. As Castro's lawyer, he travels frequently to Cuba where he enjoys the revolutionary amenities of the "Havana Libre" (formerly Hilton) Hotel, as an honored guest.

But if manual labor is not the traditional hallmark of the Boudin family, they turn to it when ideology is involved. Leonard Boudin once cut sugar cane to help Castro meet Cuba's export commitments to the Soviet Union, and in 1962 daughter Kathy worked on a kolkhoz in the Soviet Union, along with Rockwell Kent's daughter, Natasha.

The Odor of Espionage?

The art of espionage, of course, is seldom conducted in the open for its very success depends upon those involved remaining hidden from public view. Nevertheless, it has been said with some certainty that over the years Leonard Boudin has been a contact of both the Czech and Soviet espionage organizations, the latter best known by its initials, KGB. Because of the secrecy normally surrounding meetings between foreign agents and American citizens, it is impossible to say whether Boudin was providing information to Communist governments or -- as seems more likely -- receiving instructions or advice concerning the defense of clients in whom the Czechs or Russians had a special interest.

And what of Boudin's client, Daniel Ellsberg?

2448

Most of what Daniel Ellsberg has said in public since he acknowledged stealing the Pentagon Papers seems calculated to position him as having responded to an order of morality higher than his onetime solemn undertakings to his country. This rationale, let it be remembered, was earlier employed by atomic spies Klaus Fuchs, David Greenglass, Morton Sobell and Bruno Pontecorvo.

And although there is as yet no conclusive evidence that Daniel Ellsberg acted on specific instructions of the Soviet Union -- as did those earlier informants -- the distinct possibility remains that Ellsberg's "higher order" will one day be revealed as the Soviet Fatherland. For history is replete with

repetition, and notable similarities exist. The notorious Amerasia case, for example, involved the revelation to Soviet Intelligence of 1,700 classified documents by an interlocking directorate of wartime government employees and officials. (The total seems small compared to Ellsberg's 47 volumes, but the Xerox machine was yet to be invented.)

Turning again to history, one wonders whether, as the date of his trial approaches, Ellsberg will lose his nerve and flee to Communist asylum as did his fellow Cambridge alumni, Guy Burgess, Donald MacLean and Kim Philby.

Or will continuing confidence in the track record of Leonard Boudin persuade Ellsberg to remain and take his chances with the American legal system?

Of the future one can only speculate; but it seems certain that whatever decision Daniel Ellsberg makes will be shaped in large measure by the advice and personality of lawyer Leonard Boudin. 002443

Cui Bono

The legal query cui bono (to whose benefit) is relevant to Ellsberg's acts of professional disloyalty, for the leaders of North Vietnam, Red China and the Soviet Union were the undoubted beneficiaries of Ellsberg's revelations. The question is equally applicable to the relationship between Boudin and Ellsberg as attorney and client. Here, quite clearly, the retention of Boudin was undertaken in the hope that Ellsberg would escape with impunity -- a reprise of what occurred in 1949 when Boudin's intervention in behalf of accused Soviet espionage agent Judith Coplon was ultimately successful. But in the case of Daniel Ellsberg

the benefits of such an outcome will accrue to the Soviet Union, the West and Communist China. For if Boudin is again successful -- as he has been so often in the past -- the agents of foreign powers will enjoy a liberty of action never before accorded them in the history of our country. Moreover, concealed enemies within our government will be vastly encouraged to go even farther than Ellsberg did, secure in the knowledge that someone -- perhaps the celebrated Leonard Boudin himself -- will direct their legal defense, if in fact it will then even be possible to indict Americans for compromising government documents. W77

Daniel Ellsberg stated, and continues to maintain, that Americans have a right to know. If this is truly his profound belief, then Ellsberg should let America know why he retained an attorney who is both famous and notorious in his career-long defense of the Communist Party, Castro Cuba, assorted spies, perjurers, fellow travelers, conspirators, agitators and violent revolutionaries. To the dismay of his admirers Ellsberg, by retaining Boudin to defend him, tarnishes the idealistic image he tries to project, and becomes just one more client of a man and a law firm whose dedication over the years to the interests of our foreign and domestic enemies has remained unwavering and absolute. 002450

As Daniel Ellsberg so earnestly put it, Americans do have a right to know. But the answers can come only from him -- or Leonard Boudin.

93777
1962

Mr. COLSON. August 19, being exhibit 5—

Mr. DOAR. And August 24 being exhibit 6.

Mr. COLSON. Right.

Mr. DOAR. You have had an opportunity to examine these memorandum prior to the hearing this morning, and you are familiar with them. Is that a fair statement?

Mr. COLSON. Yes, sir. Exhibit 5 I had not seen until recent weeks, but I am familiar with both exhibits.

Mr. DOAR. Exhibit 5 refers to the statement of fact that you told Krogh and Young that the President was after him to get out something on the Pentagon Papers, and exhibit 6 from Mr. Ehrlichman to yourself refers to "the attached memorandum by Howard Hunt should be useful in connection with the request that we should get something out on Ellsberg."

Mr. SEIBERLING. Mr. Chairman, I am a little bit confused as to which is exhibit 5 and which is exhibit 6.

Mr. DOAR. Exhibit 5 is the memorandum of August 19, exhibit 6 is the memorandum of August 24. And I am asking Mr. Colson about exhibit 6.

Mr. COLSON. Yes, sir.

Mr. DOAR. To what was Mr. Ehrlichman referring when he used the words "in connection with the recent request?"

Mr. COLSON. I have to assume that he was using—he was referring back to the request of the President which I transmitted in some fashion apparently to Mr. Krogh or Mr. Young.

Mr. DOAR. During the middle of August and the week of the 19th had you had conversations with the President with respect to the Ellsberg matter?

Mr. COLSON. I do recall, Mr. Doar, one conversation in mid-August about the President's desire to get more information made available either through the press or through congressional committee processes regarding the Ellsberg Pentagon papers controversy.

Mr. DOAR. Did that include information about Mr. Ellsberg?

Mr. COLSON. Yes, sir.

Mr. DOAR. Did it also include information about Leonard Boudin?

Mr. COLSON. I don't have an independent recollection today of talking to the President about Mr. Boudin. I did, however, find in my Presidential notes, notes that I took during the meetings with the President and during phone conversations, I did find in those notes when I was reviewing them, prior to preparing certain motions in connection with the *Ehrlichman* case, a notation which simply said, "material about Boudin," and then some reference under it to Communist Party affiliations, and so I have to assume because of the manner in which I took notes that that was a matter that the President and I discussed, at my initiative or his, I can't say which.

Mr. DOAR. And Mr. Colson, what was the date of that meeting?

Mr. COLSON. The notes are undated, and because, unfortunately I kept them just chronologically in a yellow pad in a brief folder, so I didn't always jot down on each sheet the date that the particular note was taken.

Mr. DOAR. I didn't understand that. I'm sorry.

Mr. COLSON. Well, I kept, I kept a yellow pad in a brief folder, a black folder, and whenever the President would give me instruc-

tions I would generally write it down, or whenever I would be discussing something with him I would make some notation of what was—did not purport to be a literal transcribing of what was going on or even attempting to. It was more a reminder to me of things I wanted to do, or things I had discussed with the President, so the notes are very sketchy and incomplete, and often they weren't dated because I just kept them in a chronological—I just kept turning pages over, so I didn't date each page, and the particular note I found making reference to Boudin had no date on it.

Mr. DOAR. Well, did you have any, by looking at the notes prior thereto or subsequent notes, were you able to fix the approximate time?

Mr. COLSON. I would fix the approximate time in the middle of August.

Mr. DOAR. I see.

Mr. COLSON. The same period as these two exhibits.

Mr. DANIELSON. Mr. Chairman?

The CHAIRMAN. Mr. Danielson.

Mr. DANIELSON. I may have missed it. Have we fixed whose handwriting this is on Colson's exhibit 6? And I can't even read the last word of it.

Mr. DOAR. Well, I was going to do that next, Congressman.

Referring to exhibit 6, Colson's exhibit 6.

Mr. COLSON. Yes, sir.

Mr. DOAR. Can you read the handwritten portion there and identify it for us?

Mr. COLSON. Yes, sir. The first handwriting in the middle of the page is "Delivered to Terhorst, 8/26." Terhorst refers to, I think it's Gerald Terhorst who was the bureau chief of the Detroit News. And at the bottom it says, "File and save Pentagon papers," which merely means I marked that for my secretary to put into the Pentagon papers file.

Mr. DOAR. And whose writing is that?

Mr. COLSON. That's all my writing, Mr. Doar.

Mr. DOAR. And who is Mr. Terhorst?

Mr. COLSON. He is the bureau chief of the Detroit News, a Washington bureau chief.

Mr. DOAR. And did you deliver the attachment that had been prepared by Howard Hunt to him?

Mr. COLSON. I gave either that attachment or a copy of it to Mr. Terhorst, apparently on August 26.

It might be of relevance also to the committee that Mr. Terhorst, when this matter came up in the Ervin committee, the Senate select committee, filed an affidavit September 25, 1973, in which he acknowledges, I think, receiving it, but said that he did not use it, but that it was merely a source document. I think in fairness to Mr. Terhorst that probably this affidavit is relevant at some point.

Mr. DOAR. Now, calling your attention to a memorandum on August 26, 1971, which I would like to have marked as "Colson Exhibit No. 7," I would like to direct your attention to page 5 of that and I want to ask you if you received a copy of this memorandum.

[The memorandum referred to was marked "Colson Exhibit No. 7" and follows:]

[Colson Exhibit No. 7]

2646

EXHIBIT NO. 91

THE WHITE HOUSE

WASHINGTON

August 26, 1971

MEMORANDUM FOR: JOHN EHRLICHMAN

FROM: DAVID R. YOUNG:fy

SUBJECT: STATUS OF INFORMATION WHICH CAN BE
USED INTO CONGRESSIONAL INVESTIGATION
ON PENTAGON PAPERS AFFAIR

Initial Situation

On July 20, 1971, after a meeting with Congressmen Hebert and Arends, Mardian, Macomber and Buzhardt reported that the Congressmen:

-- were willing to pursue the idea of an investigation;

-- would begin the investigation in a low key under a Subcommittee of the House Armed Services Committee. Beginning with the questions of security clearance, classification and declassification, they would then move into the more specific case of the Pentagon Study;

-- agreed that Mardian, Macomber and Buzhardt would set the format, supply the substantive data and develop the scenario.

At that time it was also believed that the principal person involved in the whole publication of the Pentagon Study was Ellsberg. On this basis it was estimated that it would take a little over 30 days to develop sufficient information for a Congressional investigation.

The plan then was to slowly develop a very negative picture around the whole Pentagon Study affair (preparation to publication) and then to identify Ellsberg's associates and supporters on the new left with this negative image. The end result would be to show (1) how they were

intent on undermining the policy of the government they were supposedly serving, and (2) how they have sought to put themselves above the law.

Present Situation

The above assumption that Ellsberg was the principal person responsible for the publication in the Times is no longer valid. In fact, it appears that those in Justice and Defense most familiar with this whole enterprise believe that substantial evidence is being developed for the criminal prosecution of individuals other than Ellsberg; namely, Gelb, Halperin, Warnke and Rand executives. Buzhardt states that only the FBI is disposed to thinking that Ellsberg is the sole prime mover.

In addition, the investigations have uncovered a proliferation of drafts involved in the 38, 43 and 47 volume sets and the number of copies of the sets has expanded far beyond what was initially estimated on the basis of distribution lists, etc.

It may well be that although Ellsberg is guilty of the crimes with which he is charged, he did not in fact turn the papers over to the New York Times. The Defense Department's analysis of the printed material may even show that Ellsberg did not have some of the papers which the New York Times printed.

Furthermore, the whole distribution network may be the work of still another and even larger network.

Examples of the types of problems which are presently being examined are as follows:

(1) The likelihood that a good portion of the four volumes were prepared in final during the spring of 1969 while Gelb was still at Defense, and Halperin at the NSC.

(2) The curious discovery that Bill Bundy received his 47-volume set two months before anyone else.

Status of Actions

-Over 30 people (some a number of times) have been interviewed by Defense and Justice, and this week investigative teams have been

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dispatched to Europe and Vietnam.

- Buzhardt will be interviewing Clark Clifford this Friday.

- Buzhardt will interview William Kaufman shortly and this could be quite helpful in that Kaufman was one of the few people that apparently quit the project after protesting to Gelb that it was biased. Buzhardt has reason to believe that Kaufman will name names and identify those who were using the Study as a bribe.

An interview with McNamara will be conducted by Buzhardt as soon as McNamara returns from vacation in early September.

An all-out adversary interrogation of Halperin, Gelb, Warnke, Rand executives and any other prime targets developed by that time is to be undertaken by Buzhardt's team shortly.

Comment

My own impression of Buzhardt (and most of the above is based on his investigations, since Mardian's boys are concentrating on Ellsberg) is that, although he is not moving as fast as we'd like, he should get us what we want. He believes that within 14 days, when he has been able to reach some reasonably certain preliminary conclusions, we will have a good basis for setting a Congressional strategy. He is convinced that at least Gelb and the Rand executives are lying in a very grave manner, and if he can prove this I think we'll have a good idea of where we want to go and how to get there.

Recommendation

That we give Defense and Justice a little more time to develop their cases and that we set up a strategy meeting for September 9, 1971, to determine an overall game plan.

Issues to be addressed would include the following:

(1) If there is enough to bring criminal actions against Gelb, the Rand executives, etc., do we want to prosecute or do we want

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to bring such material out through the Congressional investigation?

(2) If criminal prosecution is decided against for all except Ellsberg, when would it be most desirable to undertake the Congressional investigation?

(3) What strategy should be followed in the actual committee investigation (a) if only Ellsberg is to be prosecuted, or (b) if all the key persons are to be prosecuted?

(4) Do we want the Congressional investigation to also get into the substance of the Pentagon Study? If so, a game plan must be devised for determining what, when and how information should be fed to the committee.

(5) If the decision is made to move ahead in these substantive areas, careful consideration should be given to the effect of the credibility fall-out on us. For this reason it might be best to stick with specific blunders such as the 1963 coup, the miscalculation on the need of forces, etc.

[NOTE: I am sending you a separate Hunt to Colson memorandum which attempts to select the politically damaging material involving the Democratic hierarchy. I personally believe a good deal more material could be developed along these lines. To begin with, we have Concin, Lansdale, Harkins and Nolting who could possibly be called upon to testify.]

(6) To what extent should we try to show the lack of objectivity and the intent of the participants in the Pentagon Study to distort and mislead. (Note that exploitation of this theme undercuts points (4) and (5).

(7) Effect of South Vietnamese election on timing of investigation.

(8) Effect of Ellsberg trial which will now not come up before March of 1972 on timing of investigation.

(9) How quickly do we want to try to bring about a change in Ellsberg's image? *

2650

Action

That you schedule a strategy meeting on September 9th with Macomber, Mardian, Buzhardt, Krogh and Young. (I have discussed this approach with Bud and he is in agreement).

Approve

E

Disapprove

Other

[*In connection with issue (9), it is important to point out that with the recent article on Ellsberg's lawyer, Boudin, we have already started on a negative press image for Ellsberg. If the present Hunt/Liddy Project #1 is successful, it will be absolutely essential to have an overall game plan developed for its use in conjunction with the Congressional investigation. In this connection, I believe that the point of Buchanan's memorandum on attacking Ellsberg through the press should be borne in mind; namely, that the situation being attacked is too big to be undermined by planted leaks among the friendly press.

If there is to be any damaging of Ellsberg's image and those associated with him, it will therefore be necessary to fold in the press planting with the Congressional investigation. I mentioned these points to Colson earlier this week, and his reply was that we should just leave it to him and he would take care of getting the information out. *I believe, however, that in order to orchestrate this whole operation we have to be aware of precisely what Colson wants to do.

Recommendation: That you sign the memorandum to Colson asking him to draw up a game plan (Tab A).

W.A. as sent 8/27

Mr. COLSON. The first time I saw this memorandum is when it became public during the Senate select committee hearings.

Mr. DOAR. Well, I wonder if you could read on page 5, the second to the last or two paragraphs on page 2650 which reads—

Mr. COLSON. It's apparently a footnote referring back to something mentioned earlier in the memorandum, I guess.

Mr. DOAR. Well, in the second paragraph it states that, "I mentioned these points to Colson earlier this week."

Mr. COLSON. Right. Right.

Mr. DOAR. "And his reply was that we should just leave it to him and he would take care of getting the information out."

Mr. COLSON. Right.

[Material unrelated to testimony of witness deleted.]

Mr. DOAR. Do you recall that?

Mr. COLSON. Do I recall his mentioning them?

Mr. DOAR. Yes.

Mr. COLSON. There was a time that I recall Mr. Young coming to me in the White House mess, the dining room. I had very little contact with Mr. Young at this time or at any other time. But, I do remember one occasion when he came to me in the White House mess. I was sitting at the table with other people, and he started to talk to me about putting together what he called a full game plan for congressional hearings and press on the Ellsberg Pentagon Papers matter. It was at a time I think when I was very busy with other matters, and I simply said to David Young, leave it to me, I will take care of it. So, I think this is probably what he was referring to. I think I brushed him off, which is the reason that he in this memo asks Mr. Ehrlichman to send a memorandum to me. I think Young was hoping that a request from Ehrlichman would get more response than I had apparently given him.

Mr. DOAR. And then did you have a second conversation that you recall with Mr. Young?

Mr. COLSON. I recall a second conversation which I guess would be in the same time period, although I can't pin it down, when Mr. Young stopped me in the corridor one day and said that I think, he said his testimony is, he said the California operation has been approved by Mr. Ehrlichman, and Mr. Ehrlichman said that you would provide the funds. I am not sure he said California operation. I know he said that something, an investigation or operation had been approved by John Ehrlichman, and John expected me, or Mr. Ehrlichman expected me to obtain the funds. I think I would have to place that at some later date from the conversation he is referring to here.

Mr. DOAR. By later, what do you mean, a day or so?

Mr. COLSON. No. I just don't know, Mr. Doar. I think they came in that sequence.

Mr. DOAR. In the month of August?

Mr. COLSON. I would have to assume they were. I wouldn't have been able to place them otherwise.

Mr. DOAR. Did you know that there had been a planned trip to California for some purpose?

Mr. COLSON. I think I did. I don't know when I knew it, but I knew that they were—where I knew the room 16 unit was conducting inves-

tigations, and I believe I knew they were going to California. I can't tell you when I knew that.

Mr. DOAR. And can you tell me whether or not you told David Young you would talk to Mr. Ehrlichman about the money?

Mr. COLSON. As I recall, in something like this it's these small things that make you remember it, but I remember Young taking me by the arm as I was walking, which just fixed it in my mind, and I remember saying to him, "I will talk to John Ehrlichman about that" or "I will talk to John."

Mr. DOAR. Now, if I could show you a memorandum dated August 27. The memorandum of August 26 is Colson Exhibit No. 7, and I ask that the memorandum of August 27 be Colson Exhibit No. 8.

The CHAIRMAN. It will be so identified.

[The memorandum referred to was marked "Colson Exhibit No. 8" and follows:]

[Colson Exhibit No. 8]

✓ THE WHITE HOUSE
WASHINGTON

August 27, 1971

See JDB

MEMORANDUM FOR CHARLES COLSON
FROM JOHN E. ^CALICHMAN
SUBJECT HUNT/LIDDY SPECIAL PROJECT #1

On the assumption that the proposed undertaking by Hunt and Liddy would be carried out, and would be successful, I would appreciate receiving from you by next Wednesday a game plan as to how and when you believe the materials should be used.

Mr. DOAR. You have seen this memorandum before?

Mr. COLSON. Yes, sir.

Mr. DOAR. And the subject of this memorandum is Hunt/Liddy special project No. 1. What did you understand that to be?

Mr. COLSON. I hadn't the vaguest idea when I received this memorandum.

Mr. DOAR. But you did get the memorandum on August 27?

Mr. COLSON. No, I don't think so. I believe that I received this when I returned from a trip. I had been away on that weekend and returned on August 30 late or midafternoon, and I think that is the day that my secretary handed this to me.

Mr. DOAR. Well, do you know that your secretary has testified that when she received the August 27 memorandum she took it into your office, showed it to you, and you stated that it was stupid to put that in writing?

Mr. COLSON. I have seen the later part of her testimony. I have not seen the fact that she said she took it into my office immediately on receiving it.

Mr. DOAR. But she did take it in and showed it to you, you recall that?

Mr. COLSON. I recall her bringing it in and giving it to me, yes, sir.

Mr. DOAR. And testifying that you said that it was stupid to put it into writing?

Mr. COLSON. Well, I have seen several different versions of her testimony on that point, including that.

Mr. DOAR. Well, what do you remember happening about that memo?

Mr. COLSON. I remember receiving the memo, being puzzled by it because of two things. One, I had never heard the term or seen the term "Hunt/Liddy Special Project No. 1" before. And I also remember that the memo was not written in the kind of style that John Ehrlichman generally used in writing memorandums. It just didn't look or sound like an Ehrlichman memo.

Mr. DOAR. Do you have any reason to believe that it was written by someone else?

Mr. COLSON. I thought it was at the time, and obviously now that I have seen the August 26 memorandum to which something like this was apparently attached as a tab, it's perfectly obvious it wasn't written by Mr. Ehrlichman.

Mr. DOAR. It was or was not?

Mr. COLSON. It was not.

Mr. DOAR. Now, but do you have any question about the fact that Mr. Ehrlichman sent it to you?

Mr. COLSON. No, sir.

Mr. DOAR. Approved it and sent it? If I understand what you are suggesting is that Mr. Young or Mr. Krogh prepared it for Mr. Ehrlichman's signature, he approved it and sent it to you?

Mr. COLSON. That's right. Yes, sir. And that is my understanding of what happened.

Mr. DOAR. During the week of August 21st.

The CHAIRMAN. Mr. Doar, just a moment.

Ms. Holtzman.

Ms. HOLTZMAN. I am not sure the witness answered the question as to whether he denies what his secretary said about his statement—his alleged statement—that it was stupid to put this in this writing.

Mr. COLSON. I am happy to do so. I have no recollection of saying that to Mrs. Hall and the first time that I talked to her about this, she didn't recall that.

In any event, I know what I thought at the time, which was; what is this, what's it all about?

I may have said it's a stupid memo because it didn't explain what it's about.

Mr. DANIELSON. Mr. Chairman.

The CHAIRMAN. Mr. Danielson.

Mr. DANIELSON. I would also like to know whether the witness acknowledges that the "E" through the name, "John Ehrlichman", is the "E" that Mr. Ehrlichman customarily put on such memorandum?

Mr. COLSON. Yes, sir, it looked—it looked to me at the time and does now like John Ehrlichman's "E"; yes, sir.

Mr. DANIELSON. Thank you.

Mr. COLSON. I think I might note so that the sequence of events is quite clear, that when I received this—which is another reason I think I received it on the 30th—Mr. Ehrlichman was out of town. And what I did was, which I did from time to time, is write—the handwriting in the upper righthand corner of the memo is mine. It says "See J. D. E.", which means I intended to discuss it was Mr. Ehrlichman.

I wrote that on it and put it in a separate folder which I kept for matter that I would discuss with Mr. Ehrlichman or Mr. Haldeman.

Mr. DOAR. Now, during the weekend of August 31 or on or about August 31 or September 31, can you tell us whether or not you had a conversation with Mr. Ehrlichman while he was up at Martha's Vineyard on Cape Cod?

Mr. COLSON. Yes, I did.

Mr. DOAR. Would you tell the committee about that conversation?

Mr. COLSON. I'm not sure at this time whether I called him or whether he called me. Presumably, if we have been able to accurately reconstruct the dates, it would have been August 31 or September 31. And it presumably would have been in response to whatever it was that David Young said to me in the corridor.

Mr. DOAR. Said to you in the what?

Mr. COLSON. In the corridor.

Mr. DOAR. In the corridor?

Mr. COLSON. Yes, sir.

But as I recall the conversation, all that Mr. Ehrlichman said was that he needed, or the boys needed, or there was a need for \$5,000 immediately, or right away—I assume he must have said in cash—for Krogh and to be delivered to Mr. Krogh. And Mr. Ehrlichman asked me if I could obtain the funds.

I know that he was out of town and I know that Mr. Haldeman was out of town, because I do remember, following that conversation, being a little resentful that both of them were out lying on the beach and I was back in the White House office working hard and I had to interrupt a very busy day to try to handle a fund request, which I did do from time to time—frequently, as a matter of fact.

During that conversation, I must have expressed some reservations about being able to do it, either in terms of on such short notice or because I had a lot of other things to do, and I think I said, I don't think I can do that.

Mr. Ehrlichman said, well, call Bob Haldeman because Bob has a fund and can take the money out of that fund.

I did, in fact, call Mr. Haldeman, whom I think I reached in California. He said that there was no such fund and I remember very distinctly his saying, "John Ehrlichman knows better; there isn't any such fund."

Mr. DOAR. Did you explain the fact that Mr. Ehrlichman had called you and asked you for \$5,000 for Mr. Krogh in a hurry?

Mr. COLSON. Yes, sir. I think I explained precisely what the conversation had been. After Mr. Haldeman said that he had no such funds or no funds available, or whatever it was he said to me, I then called Mr. Joseph Baroody—B-a-r-o-o-d-y—who was at that time in the throes of organizing and financing and collecting funds for the Committee for New Prosperity, which was a private group being organized at that time to support the President's economic initiatives, which he had announced on August 15. And I thought and hoped Baroody might have extra funds available. He did, and either that day or the next day, brought them over to my office. Either my secretary or I directed him to deliver the funds to Mr. Krogh, which I understand he did.

Mr. DOAR. Now, on September 7, 1971, I ask you whether or not Mr. Hunt came to your office.

Mr. COLSON. Well, I have read Mr. Hunt's testimony about that. I have read his testimony. His recollection is somewhat different than mine—not substantially, but I recall coming into the office that day. It was the first day that the President was back in his office. He had been in California and that weekend at Camp David; I had talked with him several times over that weekend. He had given me a number of assignments and I know that I was very busy. It was the first working day in the White House after the President returned and there were many things I was trying to get done for the President. I remember coming into the office. Mr. Hunt thinks it was at the beginning of the day. My calendar shows Hunt at 1 o'clock, so it would have been then.

In any event, I do recall seeing him when I came into my office. He, as he has testified, came up to me and said he had some things he wanted to tell me about, that he had been doing that weekend, and I said, "Howard, I don't have time to talk right now and I will have to see you later on," and walked by.

My recollection is a little different. I remember coming to the office, seeing Mr. Hunt, and I think he followed me into my office and said, as I recall, he said, "I have a half hour before I have to give a briefing and I thought I would drop in and tell you what we were up to this weekend and show you some things," at which point I simply said, "Howard, I don't have time to talk to you." I know that was the extent of my conversation with him.

Mr. DOAR. Now, did you cause the \$5,000 to be secured and Mr. Baroody repaid?

Mr. COLSON. Yes, sir; I did.

Mr. DOAR. A day or two following that?

Mr. COLSON. I don't know precisely when it was. The funds were in fact repaid to Mr. Baroody, I think sometime the 22d of September. But I did make the arrangements by which Mr. Baroody would be repaid for the \$5,000 that he advanced to Mr. Krogh on the day that I called him up or the day after I called him and asked him to.

Mr. DOAR. And how were those arrangements made?

Mr. COLSON. I think the first call that I made, Mr. Doar, was to Murray Chotiner, who was then a private attorney of counsel to the firm of Reeves & Harrison, here in Washington, D.C. I asked Mr. Chotiner whether the milk producers, whom I knew at that time were making contributions to various political committees, could make a contribution to a District of Columbia committee if I could find one that was operative in the amount of \$5,000, explaining to Mr. Chotiner that there had been a need for funds and this would be a way to reimburse them. I then—I think Mr. Chotiner either told me that that would be possible, that contributions were being made, or in fact, called me back and told me so. In any event, I thereafter called Mr. George Webster, who was then a partner in the firm of Webster & Marmett. Mr. Webster had organized a series of District of Columbia committees for the purpose of receiving funds earlier in 1971. I called Mr. Webster to ascertain whether those committees were still functioning and operative and whether they could receive funds. And he said they were, gave me the name of a committee. I think thereafter my secretary handled the balance of the discussions between Mr. Webster, Mr. Baroody, and Mr. Chotiner.

What in fact happened was that a contribution was made by the TAPE, the milk producers agricultural political education committee to a District of Columbia committee, of which Mr. Webster was an officer. Mr. Webster thereafter cashed that contribution and repaid Mr. Baroody.

Mr. DOAR. Now, on September 9, did you have a conversation with Mr. Ehrlichman about the memorandum of August 27?

Mr. COLSON. Well, I believe it was September 9, or—I know I had some conversations with Mr. Ehrlichman on September 9 and I suppose I would fix that as the best date. I had a folder, as I think I started to explain to the committee earlier, of sort of unfinished business or items to discuss with Mr. Haldeman and Mr. Ehrlichman.

I met with Mr. Ehrlichman and of course had in the folder "Colson Exhibit No. 8," with the notation "see JDE." I did ask Mr. Ehrlichman about it, what it was and what he expected from me. He told me, and these aren't his precise words, but it is the best I can reconstruct it. He told me that the boys—I remember him saying that—had attempted to get Ellsberg's psychiatric records but either they had failed or there were no records or it was a dry hole and therefore, this memo was therefore unnecessary for me to do anything with, that I was not to discuss that matter with anyone else outside of his office.

Mr. DOAR. Who did you understand him to mean when he said "the boys"?

Mr. COLSON. I assumed the special unit that had been created, the room 16 unit which has later become known as the plumbers.

Mr. DOAR. Now, following that time, did you have any further discussion with Mr. Ehrlichman about the break-in at Dr. Fielding's office?

Mr. COLSON. Yes, sir. The next discussion I had with Mr. Ehrlichman was on August 18 or 19 of 1973—I am sorry, April 18 or 19 of 1973. I was at that time preparing to go to the, to Mr. Silbert and Mr. Glanzer at my counsel's initiative in order to answer any questions that Mr. Silbert and Mr. Glanzer, the original U.S. Attorneys handling this matter, might have had about the Watergate. I had retained out of my White House files the four documents that we have identified today—exhibit 8, this particular memo of August 27, the July 28 memorandum, the August 3 response—and had gone over those with my counsel, Mr. Shapiro, and explained to him what they were about. In fact, these documents you have are documents that we that week turned over to Mr. Silbert and Mr. Glanzer. But before doing so, we turned—we turned over shortly thereafter.

Before doing so, I called Mr. Ehrlichman to ask him whether the Ellsberg Pentagon papers matter was still classified as a matter of national security, whether I would be free to talk about it when I met with Messrs. Silbert and Glanzer, and what instructions I was to have from the President with respect to my ability to explain what I knew about the circumstances of the Ellsberg investigation.

Mr. DOAR. What did Mr. Ehrlichman say?

Mr. COLSON. Initially, when I talked to him on the phone, I think he said that he would check on it. He assumed that it was still covered as a matter that I could not discuss, that it was national security. He called me back—I think in the afternoon of the 19th from Camp David, as a matter of fact—and he told me that he had discussed it with the President, that it was still classified, that it was a matter of national security, that I was not free to discuss it with Mr. Silbert or Mr. Glanzer or anyone else, for that matter; that the President had called Henry Petersen in his, John Ehrlichman's, presence, and had told Mr. Petersen that the Ellsberg operation had been approved by him, the President, in advance after consultation with J. Edgar Hoover, and that the Justice Department should therefore not be looking into it. Mr. Ehrlichman then said to me, I therefore don't think you will be asked about it, but if you are, you are not permitted to answer on grounds of national security.

Mr. SEIBERLING. Mr. Chairman, the time when this conversation took place is not clear.

Mr. DOAR. Well, April 19, 1973.

Is that correct?

Mr. COLSON. Well, the first conversation may have been the 18th. I am unclear about that, Mr. Seiberling. I know the second conversation was on the 19th.

[Material unrelated to testimony of witness deleted.]

Mr. COLSON. My counsel reminds me that in connection with the pretrial motions in the *Ehrlichman* case, that he was permitted to review a transcript of what is represented to be the President's conversation with Mr. Petersen that John Ehrlichman was, I believe, alluding to.

Mr. DOAR. Now, I ask you if you were familiar with the FBI, at the time that the President or Mr. Haldeman ordered an investigation by the FBI of Daniel Schorr in August of 1971, or shortly thereafter.

Mr. COLSON. Mr. Doar, I apologize, I didn't hear the beginning of your question.

Mr. DOAR. I said are you familiar with the fact that there was an FBI investigation of Daniel Schorr that was ordered by Mr. Haldeman on behalf of the President?

Mr. COLSON. I don't know for a fact that it was ordered by Mr. Haldeman on behalf of the President. I know for a fact that Mr. Haldeman did issue the orders; yes, sir.

Mr. DOAR. And did you have a discussion in November of—

Mr. SHAPIRO. Mr. Doar, would you wait just a minute, please?

Mr. DOAR. Surely.

Mr. COLSON. Excuse me.

Mr. DOAR. In November of 1971, I ask you whether or not you had a discussion with President Nixon about this Schorr investigation shortly after the story had become public.

Mr. COLSON. Yes, I did, Mr. Doar.

Mr. DOAR. Would you just tell the committee members what that discussion was, what you decided to do about that or what the President decided to do about that?

Mr. COLSON. Well, I think I have to lay a little foundation, if I may.

When the report—when I first learned that an investigation had been ordered of Mr. Schorr, it was by way of a phone conversation from Frank Stanton, the president of CBS, to me asking what—why the FBI were around asking questions about Daniel Schorr, was he being considered for a job? I assured Mr. Stanton that I thought that possibility to be remote and I thereafter began to ask some questions within the White House. I was led to Mr. Higby and then apparently from Mr. Higby to Mr. Haldeman as the person who had ordered the investigation. A short while thereafter, I guess a month or two, the press began making inquiries about the interviews of FBI agents of Daniel Schorr's associates and Mr. Haldeman had explained to me when we discussed it that he had not expected that there would be FBI interviews, that he merely was asking for information.

The only reason that the FBI conducts interviews, or the most common reason, is when a person is being considered for a job and that was Frank Stanton's first reaction.

When the reporters began to inquire and we were trying to formulate what a response would be from the White House, the suggestion was made, and I use that passively because I don't know who made it, whether it was me or Mr. Haldeman or the President—the suggestion was made that we respond to the press inquiries by stating that he was being considered for a position as a press or a television consultant on matters of environmental—environmental matters, Mr. Schorr being a reporter who covered environmental matters, plus the Department of Health, Education, and Welfare. That was the response that was given publicly, initially.

Mr. DOAR. The fact was that Mr. Schorr was not nor hadn't been considered for such a position?

Mr. COLSON. That is right.

Mr. DOAR. And the President knew this?

Mr. COLSON. Yes, sir.

Mr. DOAR. And you knew this?

Mr. COLSON. I did.

Mr. DOAR. And Mr. Haldeman knew this?

Mr. COLSON. That is correct.

Mr. DOAR. And that you were directed by the President to implement the instructions by putting out this information that Mr. Schorr was being considered for a job.

Mr. COLSON. I don't know that I was instructed to put out the information, but it was decided that that would be the response and I think Mr. Ziegler actually gave that response.

Mr. DOAR. When you say it was decided, you are speaking, that is a colloquialism to mean that the President decided. Isn't that fair?

Mr. COLSON. Well, it is not a general colloquialism. In this case, it is.

Mr. DOAR. That the President decided it?

Mr. COLSON. I think the President and I decided that that would be the best way that we could work ourselves out of what looked like an embarrassing situation.

Mr. DOAR. Well, let me ask you this, Mr. Colson, if the President and you had disagreed about it, it would not have been done?

Mr. COLSON. No, it certainly would not have been.

Mr. BUTLER. Well, Counsel, now, did the President tell somebody in his presence to put this information out?

Mr. DOAR. That is what he has testified to.

Mr. BUTLER. He hasn't testified to that to this point in my listening to the question.

Can we ask him that question?

Mr. DOAR. Well, did the President instruct you to put this information and about the fact that Daniel Schorr was being considered for a job?

Mr. COLSON. Well, "instruct" is perhaps a strong word. My recollection is that we had a few discussions about it. In the course of the conversation, and I can't say who said it, we came up with the idea of—

Mr. CONYERS. Well, now, Mr. Chairman.

Mr. SANDMAN. Let the man finish his answer.

The CHAIRMAN. Go ahead, Mr. Colson.

Mr. COLSON. We decided that this would be an appropriate way to dig ourselves out of a political hole. It may very well be that I said we ought to put this out, and the President said "fine." It may be that he said to me, why don't you talk to Ziegler and see if we can use this as an answer.

It was clear that that was the understanding and the agreement, but, I mean, I can't always say that conversations took the nature or that form. I mean I did discuss with the President putting it out and I did thereafter, I think, tell Mr. Ziegler to do so and I would assume it was with the concurrence of the President. Whether he directly ordered it or not, I can't say, because I just don't remember the conversation that precisely.

Mr. CONYERS. Now, Mr. Chairman.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Could you instruct the witness to answer a little bit more responsively if you please, to the question? Now, Counsel has put this question as many different ways as he can imagine and I think that the Chair ought to, in fairness, require a little bit more responsive answers on the part of the witness. And I would like that recorded.

Mr. McCLORY. Mr. Chairman, I think witness has responded. Just because the gentleman does not get the answer that he wants is no reason that he should insist on a different answer from the witness.

The CHAIRMAN. I think Counsel has put the question to him.

Would Counsel put the question to him?

Mr. DOAR. Mr. Colson, was there any question in anybody's mind that the President was charging—

Mr. LATTI. Mr. Chairman, I am going to object to that question. That is not the question that was going to be propounded.

Mr. SANDMAN. Mr. Chairman, for the record, is this the kind of a question that you ask when you are only after information or is this a kind of a question that you ask when you are trying to prosecute somebody?

Mr. DOAR. I think it is a question you ask when you are after information when the witness is not being fully candid with you.

Mr. COLSON. If there is any question about my candor, let me just say that I am going to tell you the truth today. That is the reason I plead guilty so I could come here and do exactly that. I don't think I am saying anything different than I said in the numerous staff interviews that we had. I will answer your questions as truthfully as I can.

Mr. McCLORY. Mr. Chairman, I want personally to object very vigorously to the comment of counsel characterizing the testimony of the witness, as well as the credibility of the witness, including the witness' candor.

Mr. CONYERS. Well, Mr. Chairman.

Mr. McCLORY. I don't want that coming from counsel.

Mr. COLSON. I would like the record also to reflect that I volunteered this story to Mr. Doar. I was not asked about it. I told the story voluntarily. Now, if that is a lack of candor, I don't know what candor is.

Mr. CONYERS. Mr. Chairman, this objection has been made before the question has been completed, even. We don't even know what the full question is going to be.

The CHAIRMAN. Why don't we proceed? I guess it is up to each of us to test whether or not Mr. Colson is being truthful or not. The questions will be put by counsel. If any member wishes to question Mr. Colson later, he will have his opportunity. Until then, we will entertain no objection unless the matter is entirely out of order or irrelevant. We have been permitting witnesses at this time to broadly answer questions and we will continue to do so and our counsel, I think, has done his utmost to be as circumspect in the questions he has put in order to elicit information.

Mr. Colson, I know that you have stated that you are going to tell the truth and that you intend to tell the truth and that you volunteered to come here and tell the truth and I hope that you, from here on in, will do your utmost to be as candid as you possibly can be. We know that you are under your own compulsion to tell the truth and I hope that you will tell the truth.

Mr. COLSON. Well, I have been, Mr. Chairman, and I will continue on.
The CHAIRMAN. Mr. Doar.

Mr. DOAR. I just want to, just with respect to this conversation in this meeting with the President, establish if you could tell the committee, Mr. Colson, who made the decisions. Who made the ultimate decision with respect to this matter?

Mr. COLSON. Well, the ultimate decision of any matter that is discussed with the President is the President's decision.

Mr. DOAR. Thank you.

Mr. COLSON. The question you were asking me before, I want to be candid, it was very clear to me that this was the President's desire that this be done.

Mr. DOAR. Thank you.

Mr. COLSON. I was responding to a Member of Congress' question on whether I was specifically ordered to do it and I can't tell you that.

Mr. DOAR. Mr. Chairman, that completes the questions I had. Mr. Jenner has some questions on another subject.

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. Mr. Chairman, now we are to proceed to Watergate, which is a rather extensive examination. I do have a little personal discomfort after sitting here for a while and I wondered if it would be convenient and acceptable to the chairman and the committee if we could adjourn and return at 1:30 or a little bit earlier than we normally do, or have a recess for 10 minutes.

The CHAIRMAN. Let's recess for 10 minutes.

[Recess.]

The CHAIRMAN. The committee will come to order.

Mr. Jenner.

Mr. JENNER. Thank you, Mr. Chairman.

Are you ready, Mr. Colson?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you.

There has been some testimony, Mr. Colson, respecting daily news summaries. I think when I talked with you on Saturday and your counsel, we talked about that subject. Are you acquainted with the daily news summary, that had the practice of reaching the President's desk each morning?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell the ladies and gentlemen of the committee about that?

Mr. COLSON. The normal practice was that the original copy of the President's news summary would be delivered to his office, I think before 7 o'clock in the morning, in a folder and he would make it a general practice when circumstances permitted to begin the day by going through the news summary in varying degrees of intensity, depending upon how much time he had. His common practice was to make notations in the margin of the news summary which would represent instructions from him to the staff or comments from him to the staff. Those would be sometimes to Mr. Haldeman or myself, transmitted directly on a few occasions. Normally, what happened was that the news summary, after he had read it and marked it, would go to the Staff Secretary in the White House, who would then either

prepare memoranda based upon the President's marginal notations or would call the individual involved and tell him of the marginal notations that were instructions from the President based upon his reading of the news summary.

Mr. JENNER. Mr. Colson, in responding to my question, you said sometimes the news summary directions or comments—I don't want to put words in your mouth—the news summary comments, I will put it that way, would come to you directly. Would you please tell us factually what that was?

Mr. COLSON. Yes, sir. If the President, for example, were to call Mr. Haldeman in or me in while he still had the news summary, he often would read us the comments directly or discuss them with us or hand us a page out of the news summary. I think he did with me on a few occasions, with his notations on it. And sometimes it therefore didn't go through the staff system. But that would be a function—that would be occasioned by one of us being with him right after he had read it.

Mr. JENNER. I see. Thank you.

Do you have any knowledge of what was done with those news summaries, particularly the President's copy, as far as filing it or preserving it are concerned—is concerned?

Mr. COLSON. I don't sir, really.

Mr. JENNER. All right. Thank you.

Mr. Colson, we have noticed on some documents that have reached the committee sometimes a pi symbol, pi, and sometimes a letter "P" in longhand, most of the time in the upper left or upper right corner, although I think we have found these symbols on some other spots on memoranda. Did you have a practice of placing a letter or symbol on certain memoranda?

Mr. COLSON. Any—

Mr. JENNER. Please—

Mr. COLSON. Yes, sir.

Mr. JENNER. You did?

Mr. COLSON. I did, yes sir.

Mr. JENNER. Did Mr. Haldeman?

Mr. COLSON. Yes, sir.

Mr. JENNER. And did Mr. Ehrlichman?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you please tell the ladies and gentlemen of the committee what that practice was and the need for those symbols and why you put them on?

Mr. COLSON. If I received a memorandum from someone on my staff or I prepared a memorandum or had a copy of a memorandum and intended to discuss it with the President, I would always put a "P" in the upper righthand corner and put it in a folder of papers that I would take to discuss with the President. After I discussed it, I would normally check it off.

Mr. JENNER. You would put a checkmark by the "P," the letter "P"?

Mr. COLSON. I think I usually circled it and/or put a check right beside it, yes.

Mr. JENNER. Thank you.

Mr. COLSON. Mr. Haldeman used a similar system for papers and documents that came to him. He would use the letter "P" and generally check off after he had talked to the President about it.

Mr. Ehrlichman used the symbol of, the pi symbol for the President, although I have to say I have never seen him do it. I do know that he used that symbol, but I don't think I have ever seen a piece of paper that he used it in the same fashion that Mr. Haldeman and I did.

Mr. JENNER. I somewhat recall from your testimony this morning, and I could be wrong, I may be confusing it with my interview of you Saturday, as to a practice with respect to documents once having reached the President, whether they were returned to you or if a document that you had sent on expecting it to be relayed to the President was not returned to you. Would you tell the committee about that practice? At least as far as you are concerned—you were concerned.

Mr. COLSON. We discussed that, I think, Saturday, Mr. Jenner.

The general procedure, if the President asked me for a memorandum or if I decided on my own that I wanted to send him a memorandum, I would address it to him.

If, on the other hand, Mr. Haldeman asked me for a memorandum or if it were for the President or if it were a matter that I knew Mr. Haldeman was handling, I would often address memoranda to Mr. Haldeman. He would be the addressee of the memorandum. But I knew and Mr. Haldeman knew that the intended recipient of the memo was the President.

Normally, if I addressed memos to Mr. Haldeman, he didn't retain originals. He would send them back, either with his notations on them or just with an initial "H" and a check, which would mean that he had read it. If a memo addressed to Mr. Haldeman went to the President, I usually could tell, just as a standard practice, because it would not come back to me, the original would not come back. I suppose Mr. Haldeman could have filed it, but I got the impression, at least, that on those memos, they went directly to the President and anything that the President read then went into his own personal Presidential filing system.

Mr. JENNER. There has been some testimony, Mr. Colson, about a practice of the President, or let's say a rule, perhaps that the President disliked to receive memoranda directed to him or at least discussed without some recommendation or solution. Were you acquainted with that and, if so, would you please tell the committee about that?

Mr. COLSON. Well, the general practice, not only with memoranda but in terms of matters to be discussed with the President, was that you would not take a problem to him and leave it on his desk, so to speak; that that was not the function of a good staffer; that if you had a problem or there was a problem that you wanted to direct to the President, you wanted to direct the President's attention to it, that it was kind of SOP that at the same time, you would try to give him the solutions—recommended, at least—or you would, at the very least, you would have checked with all the appropriate staff people and be able to represent their views in whatever memo you sent him.

In other words, you would not send him a memo saying that we have a terrible problem with respect to an LEAA grant in somebody's area

without telling him what you thought you should try to do about it.

Mr. JENNER. When you used the letters "SOP" you meant standard operating procedure?

Mr. COLSON. Yes, sir.

Mr. JENNER. In your last answer.

Mr. COLSON. Right.

Mr. JENNER. Thank you.

Directing your attention to January or February 1972, do you recall having a meeting in your office with Howard Hunt and Gordon Liddy?

Mr. COLSON. Yes sir, I do.

Mr. JENNER. And what was the occasion of the meeting? That is, what brought it about? And then I am going to ask you about the meeting itself.

Mr. COLSON. What brought it about, Mr. Jenner, was one night, I thought it was February but after later checking my calendar, I think it was January—about 6 or 7—no, later than that—maybe 8 o'clock at night, my secretary came in and said, Howard Hunt was outside—he had not asked for an appointment—and he wants to see you for just a moment. He's got Gordon Liddy with him and they just want to have a word with you.

I at first said I was just too busy trying to get out of the office that night. She said he was very insistent, and I said all right, I'd see them for a moment or two, which I did.

Mr. JENNER. All right. Now, that conference, I take it from what you have said—and if I am wrong, please correct me—or meeting, was in your office?

Mr. COLSON. Yes, sir.

Mr. JENNER. You, Mr. Liddy, and Mr. Hunt were present—

Mr. COLSON. Mr. Hunt—

Mr. JENNER. And no one else?

Mr. COLSON. That is correct.

Mr. JENNER. Now, would you state to the best of your ability and recollection the substance of what they said to you and what you said to them?

Mr. COLSON. The best recollection is one that is as nearly contemporaneous as it can be, which is a memorandum which I prepared to the file on June 20, 1972. I prepared it for the reason that on that day, the Washington Star had a banner headline that I was involved in the Watergate, so I decided to dictate a memorandum to the file setting forth all of the meetings and conversations I could recall with Hunt during 1972.

Basically—I think the committee has this, but basically, Hunt and Liddy came in. I don't recall their sitting down, because I let them know that I was in a hurry to leave and was trying to clean up affairs in my office that day.

Mr. SEIBERLING. Mr. Chairman, it is unclear what the date of the meeting was that is being discussed.

Mr. JENNER. Thank you. Congressman Seiberling.

That was in January 1972, was it not, the meeting in your office?

Mr. COLSON. Yes, sir. It was on the spur of the moment, and so my secretary did not, apparently, write it into my date book. I don't know the precise date.

Mr. JENNER. Now, you are immediately referring to what, for the information of the committee?

Mr. COLSON. Well, I am referring to a memorandum I prepared on June 20, 1972, in which I recount what I recalled in June of 1972 about that meeting which had taken place a few months earlier.

Mr. JENNER. For the information of the committee, the June 20, 1972, memorandum appears on page 1170 of the Senate Select Committee record and testimony. It is entitled—well, it is dated June 20, 1972, "Memorandum for the file. Subject: Howard Hunt."

Would you please proceed, Mr. Colson?

Mr. SEIBERLING. Mr. Chairman, could we ask Mr. Jenner if this memorandum is in the materials that have been presented to the committee prior to this time?

Mr. JENNER. It is not and in the light of the fact that Mr. Colson is now referring to it, we will duplicate it and supply a copy of it to the committee. And for that purpose, as suggested by Mr. Doar, may it be marked Colson Exhibit No. 9, Mr. Chairman?

The CHAIRMAN. It will be so identified.

[The document referred to was marked Colson Exhibit No. 9 and follows:]

[Colson Exhibit No. 9]

1170

June 20, 1972

MEMORANDUM FOR THE FILE

SUBJECT: Howard Hunt

The last time that I recall meeting with Howard Hunt was mid-March. According to my office records, the date was March 15. At that time I was under the impression that Hunt had left the White House and was working at the Committee for the Re-election of the President.

I may have seen Hunt once or even possibly twice subsequent to that time. These were (or this was), however, a chance encounter. I do recall seeing him outside of my office during a day this Spring; I recall inquiring about his health since he had told me in March he had bleeding ulcers. During the brief conversation in the corridor, nothing was discussed or any of Hunt's work or his areas of responsibility. As I recall, he merely told me that he had been very busy and that after getting some rest, his health had been restored.

I also talked to him on the telephone the night Governor Wallace was shot simply to ask him for his reactions on what he thought might have been the cause of the attempted assassination. (Hunt was known of something of an expert of psychological warfare and motivations when in the CIA.)

The only other communication I can recall subsequent to March 15 was a memo I sent to Howard in connection with what I thought his duties were at 1701, i.e., security at the Republican Convention. Steve Bull told me he had a friend in Miami who had been stationed in the White House but was now in the Miami office of the Secret Service who wanted to be of help to whoever was handling security for the convention. I merely sent Hunt a note suggesting that he get in touch with Bull's friend.

To the best of my recollection, Hunt came to me during the month of January and said he had no work to do here and no one was giving him any assignments and that this was the only campaign year he would ever probably have a chance to participate in, that he cared only about one thing, the re-election of the President, and that he wanted to be of help in any way he could, for pay or not for pay. I told him I had nothing in my office, but that I thought once the Committee was organized and Mitchell was in charge, there would be work for him to do at the Committee. I told him that I would be sure the Committee was aware of his desire to help. I did nothing further.

A few weeks later Hunt dropped by my office with Gordon Liddy, from the Committee. I believe this was in February, possibly early in the month, although my office records do not show the visit. Hunt said he was in the building and just wanted to talk briefly. Both he and Liddy said that they had some elaborate proposals prepared for security activities for the Committee, but they had been unable to get approval from the Attorney General. I explained that Mitchell would soon be at the Committee and that they should be persistent and see him because he was the only one who could authorize work they would be doing. I have a vague recollection that Liddy said, "We (referring to Hunt and himself) are now over at the Committee working and we are anxious to get started but can't find anyone who can make a decision or give us the green light" or words to that effect. While Liddy and Hunt were in my office, I called Jeb Magruder and urged them to resolve whatever it was that Hunt and Liddy wanted to do and to be sure he had an opportunity to listen to their plans. At one point, Hunt said he wanted to fill me in and I said it wasn't necessary because it was of no concern to me, but that I would be glad to urge that their proposals, whatever they were, be considered. There was no discussion that I can recall of what it was that they were planning to do other than the fact that I have the distinct impression that it involved security at the convention and/or gathering intelligence during the Democratic National Convention.

In March, Hunt sent me a memo explaining that when he retired from the CIA he had failed to designate survivor benefits for his wife and in view of the fact that he had had severe ulcer attacks, he wondered if this could be changed in view of his present government service. I told him to take the matter up with Dick Howard, which he did. Dick's memo to Kehrli, copy attached, was the result. I assume Dick Howard discovered at this time that Hunt was still on the rolls even though not working for us.

3.

I had assumed throughout Hunt's tenure in the White House that he was charged to someone else's budget. I signed the original request for him to be a consultant because everyone else was in California at the time it was decided to bring him in. Shortly after he came on board, however, he was assigned to David Young and Bud Krogh and I didn't consider at any time after that that Hunt was under my supervision or responsibility.

From time to time after Hunt had come on board, he did talk to me, normally to express his frustrations in being unable to get things through the David Young operation. Of course, on occasion also we talked socially and about politics, something Howard and I had done from time to time over the years.

Charles W. Colson

A TRUE COPY

Mr. JENNER. Proceed, Mr. Colson, if you still have the thread.

Mr. COLSON. Right. If the members have the Ervin committee transcript there, I think it is like the fifth paragraph.

Mr. SANDMAN. What's that page?

Mr. JENNER. That is the paragraph at the top of page 1171.

Mr. COLSON. "A few weeks later Hunt dropped by my office with Gordon Liddy, from the committee."

Mr. JENNER. Go ahead, that is right.

Mr. COLSON. "I believe this was in February, possibly early in the month, although my office records do not show the visit."

I later ascertained it was January—or I believe it was.

"Hunt said he was in the building and just wanted to talk briefly. Both he and Liddy said that they had some elaborate proposals prepared for security activities for the committee, but they had been unable to get any approval from the Attorney General. I explained to them that Mitchell would soon be at the committee and that they should be persistent and see him because he was the only one who could authorize work they would be doing."

Liddy said something to the effect "We"—this is, Hunt and himself—"are now over at the committee working and we are anxious to get started but can't find anyone who can make a decision or give us the green light."

I found in my dealings with the committee for the Re-election of the President that that was not an uncommon complaint and I had rather strong feelings about the ineptness of the big burgeoning bureaucracy at 1701.

I remember picking up the telephone and calling Jeb Magruder and saying, Jeb, these guys are in my office and they have got some plan they want to present, and it is time to fish or cut bait; either listen to them or hear them out.

I said to Magruder, I don't even know what the proposals are, but somebody ought to make a decision. I probably said, what's the matter with you guys over there, you can never decide anything?

There was no discussion in that meeting that they were planning to do anything that involved any of the activities that later occurred. I mean there was nothing about the Watergate or anything related to Watergate or electronics, eavesdropping or anything else. I had the impression that what they were talking about was security for the convention and gathering intelligence during the Democratic Convention.

Mr. JENNER. During the course of that meeting as to which you have refreshed your recollection by looking at the Senate Select Committee testimony and record, was any reference made, directly or otherwise, to electronic surveillance?

Mr. COLSON. No, sir.

Mr. JENNER. Thank you.

Now subsequently, Mr. Colson—

Mr. COLSON. And when I say subsequently, I am just talking about, generally about the next couple of months—say January through May—

Mr. JENNER. Did you have further contacts with Mr. Hunt?

Mr. COLSON. Yes, sir. All the ones that I could recall on June 20 are laid out in this same memorandum. There is one that—

Mr. JENNER. That is Colson Exhibit No. 9?

Mr. COLSON. Yes, sir.

Mr. JENNER. Are you ready?

Mr. COLSON. Mr. Shapiro was just telling me to be responsive to your question.

Mr. JENNER. Thank you. Very good advice.

Do you remember an occasion during that time relating to an event relating to Dita Beard?

Mr. COLSON. Yes, sir.

Mr. JENNER. And Mr. Hunt?

Mr. COLSON. Yes.

Mr. JENNER. Did you have occasion to direct Mr. Hunt to do something with respect to Dita Beard?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell us about that, please?

Mr. COHEN. Mr. Chairman.

Could you specify the time you are talking about now?

Mr. JENNER. Would you give the time, Mr. Colson, when you respond?

Mr. COLSON. Yes. On March 14, Mr. Hunt sent a memorandum to me. For about a week prior thereto, I had been of the strong belief that the now famous Dita Beard memo, which endeavored to tie the antitrust settlement of the ITT case to the contribution to the convention bureau in San Diego for the Republican National Convention—attempted to tie the two together—I had been of the belief, as had a number of others in the White House, that that memo was a forgery and was not an accurate memo, or if it was, certainly the contents weren't accurate.

Mrs. Beard was—I had come to learn—had been interviewed extensively by ITT lawyers, but was now in Denver at a hospital. Mr. Hunt, on the 14th of March, sent a memorandum to me, which I think is in the transcript of the Senate Select Committee proceedings. It is very short. I will read it:

[Material unrelated to testimony of witness deleted.]

Mr. COLSON. The memo from Hunt simply says "Subject: ITT embroglio, March 17, 1972:

"1. According to Bill Gay"—I am interpreting, who was then an executive of Hughes Tool Co.—"the Dita Beard letter is a forgery uttered by Tom Casey of ITT who aspires to Dita's job. The four misspellings of commitment would never have been done by Dita's secretary.

"2. Why not let me confer with Dita's attorney in alias and with Dita's secretary, establish what I can, then enlist Bill Buckley in a counterattack that would involve his facing the Senate committee and tilting with Jack Anderson, Teddy Kennedy, et al.

"3. To date, the document itself has not been questioned. Since it is the crux of the matter, it should be and a diversion or clouding of the issue at this time should be useful. HH."

Howard Hunt.

Mr. JENNER. To whom was Mr. Hunt referring when he mentioned a Bill Buckley?

Mr. COLSON. William Buckley, the syndicated columnist, who is a friend of Hunt's.

Mr. JENNER. Thank you. Had you known Dita Beard?

Mr. COLSON. I had met Dita Beard very casually at a couple of social functions in the mid-1960's.

Mr. JENNER. OK. Would you please proceed, sir?

Mr. COLSON. That memorandum suggested to us that—when I say “us” a group of us at the White House who were concerned with the Kleindienst nomination and the ITT hearings and the accusations that had been made—suggested that Hunt could go directly to Dita Beard and interview her, which we decided—and the “we” there is the task force that was meeting at the White House—we decided we would send her to do—send him to do. And in fact, we did ask Mr. Hunt to go to Denver and to interview Dita Beard to determine, first, whether the memo—whether she said that in fact, she wrote the memo; if she wrote it, when she wrote it; whether it was an accurate memo; whether the contents were accurate. Since that was the heart of the controversy and we were going all around trying to find out what the memo meant and since the recipient of the memo said that he had never read it, there were a lot of reasons to try to find out from Dita Beard if in fact it was authentic.

We also wanted to find out—we also wanted to reassure her that if she had pulled a stunt like this for reasons we suspected, which was that she was trying to keep her job at ITT, and wrote this kind of a memo so that she would have a reason to be able to persuade her employers not to discharge her, which there had been a thought of doing, I understood, we wanted to reassure her that none of her friends in Washington would hold it against her if she now told the truth. One of the instructions Hunt had was simply to tell the truth, to get her to tell the truth, and to assure her that no one would hold it against her if she did.

Hunt did go to Denver in alias—

Mr. JENNER. When you say in alias, you mean he used an alias?

Mr. COLSON. He used an alias and he also wore what has subsequently been described as an ill-fitting red wig, although the CIA takes great offense at that.

Mr. SEIBERLING. Mr. Chairman, Mr. Colson said that he conferred with someone at the White House, but he didn't say who that was.

Mr. COLSON. Well, I am sorry.

The people who were meeting at that time, and I can't tell you all of which were present during the particular discussion with Hunt, but—

Mr. JENNER. You mentioned task force.

Mr. COLSON. It was a task force that had been set up. It was Bill Timmons, Wally Johnson from the legislative liaison office, Fred Fielding, and John Dean from the counsel's office. Mr. Ehrlichman was in attendance from time to time; Mr. Clark MacGregor was in attendance. It varied a little bit, but they were all staff. The President was not at that meeting where I dispatched Mr. Hunt to Denver.

Mr. JENNER. Did you ever have a conversation with the President with respect to your dispatching or the task force dispatching Mr. Hunt to Denver to have this consultation you have recited with Mrs. Beard?

Mr. COLSON. Yes sir. I advised the President—I don't believe I told him that it was Howard Hunt, because I don't know that that name would have meant anything to him. I did tell him that I had sent a man out to interview Dita Beard and I told him the conclusions of Howard Hunt's interview; in other words, what he had determined based upon his interview of Dita Beard. Not the entire report he prepared, but just the bottom line conclusions.

Mr. JENNER. That is a subsequent occasion.

Mr. COLSON. That was after he returned; yes, sir.

Mr. JENNER. You have directed the committee's attention to your June 20 memo—

Mr. COLSON. Yes, sir.

Mr. JENNER. Which I believe is "Colson Exhibit No. 9."¹ I haven't read that through as of the moment, but my recollection is, and please correct me if I am wrong, that the Dita Beard trip, which is mentioned in that memorandum of June 20, is that an attempt to reflect your then current recollection of all the contacts you had had with Mr. Hunt?

Mr. COLSON. Yes. I think maybe what's being pointed out to you, Mr. Jenner, is that I started the memorandum saying, "The last time that I recall meeting with Howard Hunt was mid-March. According to my office records, the date was March 15." I did not then elaborate on the Dita Beard trip because I knew what it was and I testified about it to the original Watergate grand jury in August of 1972.

Mr. JENNER. Well, refresh me, will you, Mr. Colson? Isn't it a fact that the Dita Beard trip is not mentioned in the June 20 memo? If I am wrong—

Mr. COLSON. The only thing alluded to was my last meeting with him on March 15. That was the date that I knew I had sent him out to interview Dita Beard.

Mr. JENNER. All right. Other than that, there is no mention or allusion to the Dita Beard trip?

Mr. COLSON. That is correct.

Ms. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I wonder if counsel would clarify a point that I am a little confused about. I believe the witness testified that he discussed somebody's going out to interview Dita Beard with the President. Is that at a separate meeting from the time that he told the President about Hunt's conclusions?

Mr. JENNER. Would you enlighten the Congresslady?

Mr. COLSON. No; I reported to the President after Hunt had returned that according to an interview that I had had arranged with someone we had sent—I don't think I mentioned Hunt's name—I reported the basic conclusions. But I think there was probably only one conversation about it. Any conversation would have been after I had one on it.

Mr. JENNER. Does that clarify your point, Ms. Holtzman?

Ms. HOLTZMAN. Yes; it does, thank you.

Mr. JENNER. Now, having in mind that June 20 memo, and in the light of my question to you earlier, I spanned a period of January

¹ See p. 246.

through May. As I understand your testimony—correct me if I misstate it or color it in any fashion—that you did have a number of contacts with Mr. Hunt during the months January through May 1972, and the June 20 memorandum does not purport to state all those contacts, does it?

Mr. COLSON. Well, it does, but as you have correctly pointed out, I did not go into detail about the trip to Denver. It purports to represent all of the specific contacts that I could remember at the time I wrote this.

Mr. JENNER. All right.

Mr. COLSON. As I say on the Dita Beard—on the trip to Denver—I testified about that at the grand jury shortly after this date.

Mr. JENNER. Would you tell us what the occasion was for your preparing the June 20, 1972, memo, Colson Exhibit No. 9?¹

Mr. COLSON. Yes, that was the Tuesday following the break-in at the Democratic National Committee. Mr. Hunt's name had been in the public press on Monday and I think there was a story Tuesday morning that Hunt had worked for me or was working for me at the time, which was not true. But the things that really precipitated it was a banner headline in the Washington Star that afternoon, "Colson said, Barker lied." And I know, of course, that I would be questioned about all of my contacts with Hunt and I thought it best while I was reviewing the file and while things were fresh in my mind simply to write them down. I dictated it to my secretary and the next day, talked to the FBI—I think it was the next day, or 2 days later—probably at my request, because I asked for that opportunity with John Dean.

Mr. JENNER. And the FBI did interview you?

Mr. COLSON. Yes, sir.

Mr. JENNER. And you, in being interviewed by the FBI, you had this memorandum to refresh your recollection?

Mr. COLSON. I don't—I don't know whether I had it with me when they were interviewing me, but I had written it so I would have a record of everything, all contacts that I had with Hunt.

Mr. JENNER. Did the subject matter of Hunt's CIA survivor benefits arise during this period, January through May?

Mr. COLSON. Yes, sir.

Mr. JENNER. Tell us about that.

Mr. COLSON. Well, right after the Dita Beard trip, I realized, I think, that Hunt was still on the White House payroll—

Mr. JENNER. Excuse me for interrupting you, and I apologize for it. Would you fix the time as best you can?

Mr. COLSON. This would be from the 15th of March to the 25th, 1972, somewhere in that period.

Mr. JENNER. Would it be at the latter part?

Mr. COLSON. Presumably.

Mr. JENNER. All right.

Mr. COLSON. I don't know. Some time in that period. Either I realized or Hunt mentioned something, probably in connection with that trip, that made me aware that he was still being considered as a consultant on the White House payrolls, but I knew that he was now over at the Committee for the Re-election. So I told my administrative

¹ See p. 246.

assistant to arrange to have Hunt taken off the payroll. My administrative assistant was Mr. Richard Howard.

Hunt, on the occasion of his leaving the White House payroll, asked if it would be possible to have the CIA restore his survivors benefit election so that his wife, Dorothy, would be covered in the event he were to pre-decease her. Apparently, when he had retired from the CIA in 1970, he had not elected the survivors benefit option, and he asked at the time, now, going off the Government payroll for a second time, whether the CIA or the White House or someone could arrange for him to have his survivors benefit election changed. He wrote a memorandum to me dated March 27—which I imagine you have somewhere in the file—in which he asks if we could arrange at the time, now that he was going off the payroll, to have his survivors benefit changed.

That memorandum was an enclosure to the March 30, 1972, memorandum which Mr. Howard—Dick Howard, my assistant—sent to Bruce Kehrli in terminating, or attempting to terminate, Hunt's relationship at the White House. The Hunt memo to me of March 27 was an attachment to the Howard memo to Kehrli of March 30.¹

The CHAIRMAN. We will recess until 2:15.

[Whereupon, at 1 p.m., the committee recessed to reconvene at 2:15 p.m., the same day.]

AFTERNOON SESSION

The CHAIRMAN. The committee will come to order.

Mr. JENNER. I believe you were interrogating Mr. Colson.

Mr. JENNER. Thank you, Mr. Chairman.

The CHAIRMAN. Please proceed.

Mr. JENNER. Mr. Colson, do you recall an occasion in May 1972 of your having a conversation with President Nixon respecting the subject matter of policing of other candidates' meetings?

Mr. COLSON. Yes, Mr. Jenner. There was a conversation with the President, I think it was more likely, now that I have reflected on it, early June 1972.

Mr. JENNER. Early June. All right.

Mr. COLSON. The President asked me one day, he said we don't seem to be getting any information about what the Democratic candidates are doing, how about getting some reporters who can travel around with the Democratic candidates and report back and let us know what information they have obtained.

Mr. JENNER. Report back to whom?

Mr. COLSON. Report back to the Committee for the Re-Election.

I communicated that request on the President's part to Mr. Haldeman.

Mr. JENNER. And before you communicated that to Mr. Haldeman, had the President suggested that you do that or not as the case might be?

Mr. COLSON. I don't recall. I just remember him saying that it would be helpful as a way of getting some information.

¹ See "Statement of Information," book II, pars. 14.3, 14.6, 14.8, 14.9, pp. 171, 178-179, 181, 184.

Mr. JENNER. And you carried out that suggestion or thought, in any event?

Mr. COLSON. Yes, sir.

Mr. JENNER. Do you recall a meeting of yourself, Mr. Mitchell, Mr. Magruder, Mr. Harlow, and Mr. MacGregor in early June of 1972?

Mr. COLSON. There were two such meetings.

Mr. JENNER. All right; tell us. Give us the date of the first one, where it was, and state if I was correct as to those who attended.

Mr. COLSON. I think that's roughly the composition of the group.

Mr. JENNER. What is it you have there, Mr. Colson, your daily dairy?

Mr. COLSON. That is what passes off to be a daily diary, but it was a book that my secretary kept. We were able to piece a few things together from this. One meeting was on June 6.

Mr. JENNER. All right, June 6, 1972. Tell us about that meeting. Who said what and what the substance was.

Mr. COLSON. The other meeting was June 14.

Mr. JENNER. All right, tell us about the first one.

Mr. COLSON. Well, I don't know, I don't know that I can separate the two. They were really sort of political strategy meetings that we were holding.

Mr. MacGregor, Mr. Harlow, John Mitchell, myself, what we were discussing—

Mr. JENNER. Where was this, sir?

Mr. COLSON. In John Mitchell's law office on the third floor of 1701 Pennsylvania Avenue.

Mr. JENNER. OK. Proceed.

Mr. COLSON. What we were discussing was I think, the principal area of interest was whether Senator Humphrey would remain a candidate for the Democratic nomination, which we were interested in knowing whether he would. Mr. MacGregor had been in touch with Dwayne Andreas.

Mr. JENNER. Is that D-w-a-y-n-e?

Mr. COLSON. I believe so, who had been a friend of Senator Humphrey's, but also was someone who had agreed to support the President for reelection in the event Senator Humphrey did not run. Mr. MacGregor, who was from the same area as Mr. Andreas had gone out and visited with Dwayne Andreas and had come back and said that Senator Humphrey was going to meet with Andreas the next day in New York and that after that meeting Mr. Andreas would let Mr. MacGregor know whether Senator Humphrey was going to remain in the race.

John Mitchell, in the course of that conversation, said well if you give me the room number that they are meeting in, and he said this in a very joking fashion, if you will get me the room number they are meeting in I will tell you everything that is said in that meeting.

Mr. JENNER. Now, that's the substance of those two meetings that you can't separate particularly, is that correct?

Mr. COLSON. I can't tell you when that discussion was. That could be determined from the fact that it was the day after Mr. MacGregor had flown out to meet with Dwayne Andreas but I don't know which of the two meetings.

Mr. JENNER. All right. Have you now recited to the committee all you can recall about the two meetings in early June?

Mr. COLSON. No. There was a lot else discussed, but it was about the operation of the committee and some of the labor activities, I mean, the part about, the interest in Senator Humphrey was but one item that was being discussed, but it did give rise to what I took at the time to be a joking comment by Mr. Mitchell.

Mr. JENNER. All right. Were there regular meetings of this character held, Mr. Colson?

Mr. COLSON. There was, beginning I guess in the spring of 1972, perhaps March or April, there were regular meetings at 10 o'clock on Monday and Thursday of each week, attended by Mr. Haldeman, Mr. Ehrlichman, myself, Bryce Harlow, John Mitchell, and later Clark MacGregor. I think those were the attendees, and that was kind of a campaign strategy group that was meeting that met two times a week to discuss some of the campaign issues.

Mr. JENNER. Were those meetings held at the White House and sometimes at the CRP?

Mr. COLSON. No, they were always held in Mr. Ehrlichman's office at the White House.

Mr. JENNER. Mr. Ehrlichman?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you.

Mr. COLSON. And I'm sorry, sometimes in Mr. Haldeman's office.

Mr. LATTI. Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Latta.

Mr. LATTI. Didn't I just understand the witness to say that this first meeting was held in John Mitchell's office, or are my notes in error?

Mr. JENNER. No, that is what the witness said, sir.

Mr. LATTI. And didn't he also say they were always held in Mr. Ehrlichman's and sometimes in Mr. Haldeman's office, or was I hearing wrong?

Mr. JENNER. Would you explain that apparent conflict or discrepancy? I don't mean to characterize your testimony but Congressman Latta has raised the issue.

Mr. COLSON. There were two different kinds of meetings. The two meetings that took place in John Mitchell's office on the 6th and the 14th of June were meetings that were called in the afternoon that weren't regularly scheduled meetings, but there were matters that needed to be discussed and we went to Mr. Mitchell's office.

The normal meetings took place, the regular campaign strategy meetings, took place every Monday and Thursday, and those were regularly scheduled at 10 o'clock. The two that Mr. Jenner first asked me about just happened to be two that weren't in that pattern.

Mr. JENNER. Mr. Colson, directing your attention to June 17, 1972, a Saturday.

Mr. COLSON. Yes, sir.

Mr. JENNER. Do you have a recollection of that day?

Mr. COLSON. Very well.

Mr. JENNER. Do you recall of any conversation with Mr. Ehrlichman on that day?

Mr. COLSON. Yes, I do.

Mr. JENNER. And what time of day did it take place? Was it a telephone call or person to person?

Mr. COLSON. It was a telephone call and it took place, Mr. Jenner, late in the afternoon. I would guess around perhaps 5 o'clock.

Mr. JENNER. All right. Would you say to the best of your recollection what was said to you, what you said to him, and we appreciate that you can't recall the exact words.

Mr. BUTLER. Wait a minute, who initiated the call? Did you ask that?

Mr. JENNER. I did not. And would so state, Mr. Colson?

Mr. COLSON. Mr. Ehrlichman called me about 5 o'clock on Saturday the 17th.

Mr. JENNER. Go ahead, Mr. Colson, please.

Mr. COLSON. He called and at the outset of the conversation just asked me whether I knew where Howard Hunt was or had I heard from Howard Hunt lately. I said that I had not heard from Hunt or talked to him in a couple of months and that I hadn't seen him but that I believed that he was working at the Committee for the Re-Election of the President.

I asked Ehrlichman why he wanted to know and he said well, some of the people arrested inside the Watergate at the break-in of the Democratic National Committee, one of the persons had a letter in his pocket with Howard Hunt's name on it, or a check in the letter, something identifying Hunt in his pocket. If it weren't for ladies present, I would give you precise words that I next said. I was horrified because I had heard the name before, but I did not know Caddy. That was the on the car radio that day, and was mildly amused that burglars would break into the DNC headquarters. I told Ehrlichman that if I—Ehrlichman asked me, in addition he said have you ever heard the name Douglas Caddy and I said that I had heard the name, I knew I had heard the name before, but I did not know Caddy. That was the substance of the conversation.

Mr. JENNER. I would like to return to that for just another question. When you expostulated, at what point did your expostulation take place, when Mr. Hunt's name was mentioned?

Mr. COLSON. After he told me that one of the burglars had something in his pocket that had Hunt's name on it.

Mr. JENNER. Thank you. Did anything else occur that day as far as your activities were concerned with respect to the break-in that had occurred in the early morning hours of that day?

Mr. COLSON. No, sir; I don't think anything further that day.

The next day, or it may have been that night I called, I guess my administrative assistant and my secretary to ask—

Mr. JENNER. Who is your administrative secretary or assistant, rather?

Mr. COLSON. Richard Howard.

Mr. JENNER. Richard Howard?

Mr. COLSON. Right, and also my secretary, Joan Hall, to ask whether—

Mr. JENNER. I don't mean to influence your testimony, but my notes of my interview Saturday indicate that was on Sunday, June 18.

Could I be wrong about that?

Mr. COLSON. No. I said it was either that night or the next day, I thought the next day.

Mr. JENNER. All right.

Mr. COLSON. But I just want to be sure.

Mr. JENNER. Tell us what took place in that thought you now have in mind.

Mr. COLSON. Well, I was simply trying to find out when they had seen Hunt or how recently Hunt had been in the White House.

Mr. JENNER. Was there any other subject matter you inquired about of them?

Mr. COLSON. No, sir.

Mr. JENNER. This is just possibly for refreshing your recollection, but was there any inquiry on your part or on Mr. Howard's part respecting Mr. Hunt's status as a White House employee?

Mr. COLSON. I'm sorry. That's what I thought I meant. I asked how recently they had seen him and whether he was still around the White House, or on the White House payroll, or on the White House rolls.

Mr. JENNER. And what was Mr. Howard's response or your secretary's, if you asked both of them?

Mr. COLSON. I think both of them said the same thing, that he had been gone for some time. Howard thought that he had remembered taking him off the payroll and I know we decided that he would the next day check the files to see what we could find about Hunt's status.

Mr. JENNER. All right. Did you have any conversation thereafter with Mr. Haldeman?

Mr. COLSON. I did.

Mr. JENNER. On that date?

Mr. COLSON. Not on Saturday. I did on Sunday, as I recall.

Mr. JENNER. And Sunday would be the 18th?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right. Did Mr. Haldeman call you or did you call Mr. Haldeman?

Mr. COLSON. No, I think Mr. Haldeman called me.

Mr. JENNER. All right, give us that conversation as best you can recall it.

Mr. COLSON. Well, I don't really recall the conversation other than I know that Haldeman was inquiring about Hunt and I am pretty sure that it was that day that he called me and I told him that we had been trying to find out whether Hunt had any connection, remaining connection with the White House, that that was something we were checking but I hadn't seen him in quite a while.

Mr. JENNER. Mr. Colson, you said Mr. Haldeman was inquiring about Hunt. Was he—and then your second portion of your answer indicated the subject matter was whether Mr. Hunt was on the rolls. Did Mr. Haldeman say anything about that when he first inquired of you?

Mr. COLSON. I know I talked to him that day, Mr. Jenner, but I am just not that sure. I think we were all trying to find out what had happened, at least I thought we all were.

Mr. JENNER. Is your best recollection of the subject matter of the conversation with Mr. Hunt in respect to whether he was on or off the rolls of the White House?

Mr. COLSON. I know I had such a conversation with Mr. Haldeman and I would have to believe that it was that day, yes.

Mr. JENNER. All right. Thank you. Continue.

Ms. HOLTZMAN. Can you establish the time of that phone call, if it's possible?

Mr. JENNER. Would you please fix that as best you are able?

Mr. COLSON. I really have no way of knowing.

Mr. JENNER. Now, you had a conversation with the President on that day, as well, did you not?

Mr. COLSON. I think the logs reflect two conversations.

Mr. JENNER. All right, now. Would it help any as to whether your talk with Haldeman was before or after your conversation with the President or in between, as the case may be, does that help you any?

Mr. COLSON. No, it doesn't, Mr. Jenner.

Mr. JENNER. All right. You had two conversations with him on that day?

Mr. COLSON. Yes, sir.

Mr. JENNER. Were they in person or by telephone?

Mr. COLSON. The President was calling me from Key Biscayne both times.

Mr. JENNER. Now, tell us to the best of your recollection that conversation, and any benchmark you might have to refresh your recollection.

Mr. COLSON. Well, I had no recollection of those two calls at all, but a former assistant of mine——

Mr. JENNER. Please name him.

Mr. COLSON. Mr. Desmond Barker said that he came into my office on that Monday or Tuesday following the DNC break-in and that we were talking about it and I was describing to Mr. Barker, no relation to the Barker who was involved in the break-in, I was describing to Mr. Barker how incensed I was and how stupid I thought the whole thing was. And he asked me what the President's reaction was and I told him that the President had called me a couple of times on Sunday and he was so furious that he had thrown an ashtray across the room at Key Biscayne and thought it was the dumbest thing he had ever heard of and was just outraged over the fact that anybody even remotely connected with the campaign organization would have anything to do, anything to do with something like Watergate. At that point we knew, of course, from the newspaper accounts that Mr. McCord, whom I had never heard of before that day, nor had the President, we knew that Mr. McCord was one of those that had been caught at the Watergate and was a consultant or on the payroll in some way of the Republican National Committee and the Committee for the Re-Election.

Mr. JENNER. You used the expression "we knew." Are you referring to knowing as of, knowing that fact or those facts respecting Mr. McCord as of June 18, 1972?

Mr. COLSON. I remember, I think I remember it being on the front page of the newspapers on Sunday morning.

Mr. JENNER. All right.

Mr. COLSON. That was the first time I have ever heard of McCord.

Mr. JENNER. All right. Thank you. That's about all you can recall?

Mr. COLSON. Yes, sir.

Mr. JENNER. Don't think poorly of me for saying about all you can recall. That's all you do recall?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you. Now, Monday, June 19—by the way, were there staff meetings regularly held on certain days of the week or every morning or something of that character? Would you please tell us about that if so?

Mr. COLSON. Right. There was a regular senior staff meeting of the White House senior staff at 8:15 every morning, 5 days a week.

Mr. JENNER. Would you tell the committee what you mean by senior staff? Who were the senior staff?

Mr. COLSON. I can tell you who generally. I mean I can tell you who was then invited to attend those meetings. Mr. Haldeman, Mr. Ehrlichman, Dr. Kissinger, Mr. Rumsfeld, Mr. Finch, Mr. Flanigan, Mr. Klein, Mr. Ziegler, Mr. MacGregor, occasionally Herb Stein as Chairman of the Council of Economic Advisers, Mr. Shultz when he was head of OMB, and Mr. Weinberger after he replaced Mr. Shultz. That was it.

Mr. JENNER. All right. Now, this meeting—there was one of those meetings, was there, the morning of June 19?

Mr. COLSON. Yes, sir. There was.

Mr. JENNER. And can you recall who happened to be present to attend that meeting?

Mr. COLSON. I know Mr. Haldeman was not there. He was in Key Biscayne. Mr. Ehrlichman was there, I was there. I don't know, I think Mr. Ziegler was also in Key Biscayne. I remember in particular Don Rumsfeld being infuriated that anybody connected with, apparently connected with the Committee for the Re-Election would have anything to do with the break-in. I remember a lot of discussion at that meeting about the damaging political repercussions if it were proven or if it were a fact that anyone involved in the Re-Election Committee was involved in the Watergate.

Mr. JENNER. Have you given us the substance of that discussion, Mr. Colson?

Mr. COLSON. That's about—

Mr. JENNER. Insofar as the break-in is concerned?

Mr. COLSON. Yes, sir. It was more concerned with, you know, my God, could anybody be involved in this and if so there's going to be political hell to pay.

Mr. JENNER. It would have an effect on the ongoing campaign?

Mr. COLSON. It would have an effect in a lot of ways; yes, sir.

Mr. JENNER. Now, following that meeting that morning, Monday morning, did you have a conference with Mr. Ehrlichman?

Mr. COLSON. Yes.

Mr. JENNER. Meeting, a meeting?

Mr. COLSON. Immediately after the 8:15 staff meeting I went with Mr. Ehrlichman to his office. He called John Dean to the office and what we were trying to determine was—

Mr. JENNER. Excuse me, Mr. Colson. Pardon me. The three of you then—yourself, Mr. Ehrlichman, and Mr. Dean—were present and that's all?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you. Would you proceed, please?

Mr. COLSON. The first thing I wanted to know was whether, in fact, Howard Hunt had anything to do with the activities over the weekend.

All that I had at that point was a report Mr. Ehrlichman said that he had received from either the District of Columbia Police or the Secret Service on Saturday night. The only thing I recall occurring at that meeting is Mr. Ehrlichman calling the Attorney General, Mr. Kleindienst, and I remember the conversation, particularly remember it because of what Mr. Ehrlichman said.

He said it would appear that one of the boys, Howard Hunt, who was assigned to Colson's unit, and it sort of amused me that Mr. Ehrlichman had suddenly transferred Howard Hunt back to my staff, appears to have had something to do with this break-in over the weekend. And he asked Dick if he would check what involvement there was if any and let him know.

The meeting broke up by my deciding to go back to my office and try to find out what was in my files, and what evidence we could find of Mr. Hunt having been removed from the White House payroll.

MR. JENNER. OK. I want to ask you about that, Mr. Colson. But, what was your frame-of-mind reaction when Mr. Ehrlichman assigned Mr. Hunt to your team?

MR. COLSON. Oh, I had spent almost 3 years in the White House at that point, and I was used to the bureaucratic game of passing the buck.

MR. JENNER. All right. Now, you have anticipated me. You have returned to your office after the meeting with Mr. Ehrlichman et al., Mr. Ehrlichman and Mr. Dean. By the way, did Dean, did Dean say anything during the course of the meeting you have just described?

MR. COLSON. I don't believe so. If he did, I don't recall what he said.

MR. JENNER. All right. Thank you. And you began to look at your files to see if you could find anything referring to Mr. Hunt? Is that what you said?

I don't want to characterize your testimony.

MR. COLSON. No; that's correct. I went back to my office to try to find whatever we had in the office in the way of files or information about Hunt. In particular we were—I had—I was still uncertain because I hadn't personally handled it, whether, in fact, Mr. Hunt had been taken off the White House payroll at the time I recalled instructing my assistant to do so.

MR. JENNER. And your assistant is again Mr. Howard?

MR. COLSON. Mr. Howard; right.

MR. JENNER. And was something discovered in the course of that search?

MR. COLSON. I don't know what time, Mr. Jenner, but during the course of that morning Dick Howard came to me and brought a file copy out of the chron files of a memorandum—

MR. JENNER. Excuse me, you use a little vernacular. What is a chron file?

MR. COLSON. A chronological file. We kept a chronological file in the office of all of the correspondence.

MR. JENNER. That's chronological according to date?

MR. COLSON. Yes, sir. He had found, I guess, sometime that morning shortly after I returned to the office, a copy of the memorandum that he had sent to Bruce Kehrli asking that Hunt be taken off the payroll.

MR. JENNER. And that's a letter dated March 30 or a request dated March 30, 1972.

Mr. COLSON. Yes.

Mr. JENNER. That letter, ladies and gentlemen of the committee, is in book II, paragraphs 14.3, 14.8, 14.9, pages 171, 181, 184.

Now, following that discovery of the letter or memorandum, whatever it may be, did you have a conversation with Mr. Kehrli?

You did mention him, by the way, and I don't want to feed you any names if I can avoid it.

Mr. COLSON. Well, the first thing I did, Mr. Jenner, was to send a copy of the memorandum to John Dean. I assume you also have that letter of transmittal dated June 19 from me to John Dean saying we found the letter of termination.¹

Mr. JENNER. Ladies and gentlemen, it's in book II, paragraph 14.3.

Mr. COLSON. For some reason, I am not sure—for some reason I am not sure how it all came about. I think we had had some trouble finding that because there had obviously been a discussion with Dean and probably Bruce Kehrli, who was his staff secretary in the White House. I think there had obviously been some discussion because that memo said, "Dick Howard just discovered the attached in his chron file. This is a copy and Bruce Kehrli is looking for the original."

So, I have to assume that clearly Dean and I had already been talking about Mr. Hunt's status. The logical first person that you would talk to on something like that would be Mr. Kehrli since he was the staff secretary and was in charge of all personnel in the administrative matters.

Mr. JENNER. And did you speak with him?

Mr. COLSON. I know that he was in and out of my office that morning a few times, and I know that he and Dean were in my office that morning a couple of times, so I just—I can't put it all in sequence, but they were in and out of my office.

Mr. JENNER. Did you direct a request to Mr. Kehrli to do anything in that connection; that is, in connection with Mr. Hunt's payroll status on the White House payroll?

Mr. COLSON. As I said in the memo to Dean, I said it can now—it can be clearly and flatly said that Hunt went off the payroll as of March 30. What had happened, Mr. Jenner—

Mr. JENNER. You were just reading from something when you said that?

Mr. COLSON. Well, this memorandum—

I think it can be flatly and clearly said that his services here terminated on March 31, 1972. There is also attached a report of the conversation which Joan Hall had with Howard Hunt approximately 6 or 8 weeks ago.

So we were trying, still trying to find out what his actual status was, and we then determined that he had not submitted any vouchers for any per diem reimbursement from the White House after that date. Mr. Kehrli, however, found out his records had not reflected the termination. In other words, he had not acted as he otherwise would have on Mr. Howard's request of March 30 because of the whole question of the survivor's benefit. Apparently what happened—I say apparently, this is what Mr. Kehrli said—what happened was when the March 30 memo went to the staff secretary to terminate

¹ See HJC. "Statement of Information," book II, pars. 14.3, 14.8, 14.9, pp. 170-172, 181, 184.

Hunt. Instead of Kehrli processing it, which would have been the normal practice, because it had a request in it for Hunt to have his survivor benefit election changed at CIA, it went to another office in the White House. They were in communication back and forth with CIA, and as a result, Kehrli did not do whatever it is he normally does when someone leaves the White House, although we also found—

Mr. JENNER. Excuse me. That is Mr. Kehrli; you are telling us now what Mr. Kehrli said to you?

Mr. COLSON. During the morning of June 19, this is what Kehrli was saying; yes, sir.

Mr. JENNER. Did you give Kehrli any direction or make any request to him with respect to making sure that the records show that Mr. Hunt was off the payroll as of March 30, 1972?

Mr. COLSON. Yes. I said that since, in fact, he was, since, in fact, our office had said that he should be removed as of that date, and since he had not submitted any pay vouchers since that time, that the records ought to reflect what the truth of the matter was, notwithstanding the administrative mistake. I guess, or oversight that Kehrli had made.

Mr. JENNER. All right. Now, did Mr. Kehrli do anything during the course of that day that came to your attention with respect to the White House telephone directories?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell us, please?

Mr. COLSON. Every office in the White House and the National Security Council had a bound brown book, about so big, with everybody's telephone numbers in it. We discovered that the book was only updated whenever Mr. Kehrli notified someone of a change of a page and Mr. Hunt's phone number was, therefore, still in the book.

Since he did not have a telephone of his own, after January, my phone number was beside Mr. Hunt's name. Mr. Kehrli recalled out of all of the offices of the White House all of the phone books.

Mr. JENNER. Recalled, did you say?

Mr. COLSON. Recalled, and proceeded to have gals outside of my office taking the books apart and taking the page out and redelivering them around the White House.

Mr. JENNER. Did you have a conference with the President later that day?

Mr. COLSON. Well, the log shows a phone call.

Mr. JENNER. Either by telephone or otherwise?

Mr. COLSON. Yes, sir. The President was still in Key Biscayne. He called me that morning.

Mr. JENNER. Fix the time as best you can.

Mr. COLSON. Well, the log shows 10:49 to 11:48.

Mr. JENNER. And that squares with your recollection as to the extent that you have one as to the exact time that call was?

Mr. COLSON. I do recall a long phone conversation with him that day.

Mr. JENNER. All right; tell us.

Mr. COLSON. My recollection is, and I really don't have a very good—

Mr. JENNER. Excuse me; you were in your office at the time?

Mr. COLSON. I don't think I was. I think that I had gone back to Mr. Ehrlichman's office and I was with Mr. Ehrlichman, I believe, reporting to him on what we had found in the White House personnel files regarding Mr. Hunt. This is still on June 19.

Mr. JENNER. Yes; it is. Excuse me. I thought you were directing a question to me.

Mr. COLSON. I think what I did was, I think I took that call outside of Mr. Ehrlichman's office. I remember an instance when I had a long conversation with the President in Mr. Ehrlichman's assistant's office and I think that was the day. We talked about a number of things. I am sure we must have talked about Watergate and the fact that we were trying to find out what had happened and we were trying to find out whether Hunt had any connection with the White House. By now, Hunt's name had already appeared in the press, in print, as having been involved.

I think there was a story that Monday to that effect.

Mr. JENNER. You use the pronoun "we". Would you tell the committee what persons that pronoun embraced?

Mr. COLSON. I've forgotten now how I used it.

Mr. JENNER. You were telling the President we were attempting to find out.

Mr. COLSON. Oh, the we would be Bruce Kehrli, Ehrlichman, John Dean, myself, my secretary.

I think I just reported to him on it, on what we were trying to do—we being that same group—to try to find out what the facts were.

In all of the conversations, Mr. Jenner, that I had with him in the June 18, 19, 20 time period, he was incensed over the stupidity of anyone who might be associated with the campaign committee being involved in the Watergate, and I, without recalling it specifically—because I can't—I am sure it came up in that conversation.

Mr. JENNER. Now, following your telephone conversation with the President and on the same day, that is June 19, Monday, 1972, was there an occasion or did a circumstance arise in which the subject matter of the discussion or meeting was Mr. Hunt's safe?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell us about that please?

It was later in the day after your conversation with the President; am I correct about that?

Mr. COLSON. I don't know. I think the first conversation that I had that day about the safe, or I guess the only conversation I had about the safe took place in my office with Mr. Dean, Mr. Howard, and Mr. Kehrli present. At least that's as I recall it. And I guess I had found out, which I did not know that morning, at least I didn't know when I came into the office that morning, I found out that Hunt still had an office in the White House, that his office had never been surrendered or turned over to someone else, and that there was a safe in the office. And I remember very clearly telling John Dean that he should take custody of that safe and secure it and secure the office because if indeed, Hunt was involved in the Watergate I was sure that the investigators, FBI and others would want to look for any evidence that they might find in Hunt's office or in his safe and I remember telling Dean that he should do that which I think probably took place during one of the

meetings in the morning when we were trying to find out the circumstances of Hunt's relationship, if any, to the White House.

Mr. JENNER. All right. In any event, Mr. Colson, do you have a recollection as to whether that subject matter was discussed by you with President Nixon when he called you from Key Biscayne as you have now related to us?

Mr. COLSON. I certainly don't recall it if it did. If it did.

Mr. JENNER. I take it you have had no notion what the contents of Mr. Hunt's safe were?

Mr. COLSON. No, sir.

Mr. JENNER. Did you learn anything about those contents at some subsequent time?

Mr. COLSON. Well, there was an article in the Washington Daily News a couple of weeks later which said that a pistol, a map of the DNC and some walkie talkie equipment was found in Hunt's safe. And I remember being stunned by the article both because I couldn't imagine why there would be a pistol and that kind of equipment in Hunt's safe. I had never been in Hunt's office, I have never seen the safe, but I couldn't imagine why it was there.

The other reason it shocked me was it said Hunt's desk was in my office and the article made it sound like Hunt's safe was in my office and the pistol in it.

I called Mr. Kehrli and asked him about it and he said——

Mr. JENNER. Try and fix a date for the committee, please, of this particular event?

Mr. COLSON. Late June, there was a Scripps-Howard story that carried in the Washington Daily News. I don't have the article here, but it was a couple of weeks after the Watergate break-in.

Mr. JENNER. Late June?

Mr. COLSON. Yes, sir.

I remember Bruce Kehrli told me that a pistol had been found in the safe. I remember calling Mr. Dean and he said that the account in the newspapers was inaccurate, but he acknowledged that a pistol had been found.

I think I asked Mr. Dean at that point what had happened to the contents of the safe, and he said to me, everything was turned over to the FBI. Then he said, but everything——

Mr. JENNER. We are still at the tail end of June?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right.

Mr. COLSON. He said everything was turned over to the FBI, but everything was not in the FBI's possession. And I said I can't——

Mr. JENNER. Excuse me. Was I confused? Did he say everything was turned over to the FBI, but the FBI didn't receive everything? Would you restate that, or state it again for me?

Mr. COLSON. Well, he confused me with it. He said everything has been turned over to the FBI, but they don't have everything—or everything isn't in their possession, is the best I can recall.

Mr. JENNER. Did you ask him to explain that?

Mr. COLSON. Yes.

Mr. JENNER. What did he say?

Mr. COLSON. He said, ah, forget it.

I didn't pursue it any further. I did get the Justice Department to issue a statement that Hunt's safe was not in my office and that the rest of the stuff apparently was not in his safe as I understood it.

I never saw the contents of Hunt's safe and I have no idea what was in it.

Mr. JENNER. You have completed your remarks respecting that event at the tail end of June, have you?

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, returning to June 19, 1972, Monday, in the meeting you had with Mr. Dean, were any inquiries made with respect to where Mr. Hunt was or might be?

Mr. COLSON. Yes, one of the questions that I asked, Mr. Jenner, of John Dean sometime during that morning. I am fairly certain it was during the morning, was where is Howard Hunt, anyway; where's Hunt? Does anybody know where Hunt is?

Dean said something to the effect that we have ordered him out of the country, or he's been ordered out of the country. And I exploded, using a whole lot of words.

Mr. JENNER. Expletives?

Mr. COLSON. Expletives?

[Material unrelated to testimony of witness deleted.]

Mr. COLSON. That I thought that was about the dumbest thing I had ever heard in my life because that would involve the White House and the White House would become a party to a fugitive from justice charge. There were other people in my office. I think Mr. Kehrli was there, I think Mr. Howard was there. And Mr. Dean went to telephone in the far corner of my office and made a call. I continued talking to the other people who were in my office and I don't know who he called or what he said. I do know later that afternoon, the matter of Mr. Hunt being ordered out of the country came up in a meeting at Mr. Ehrlichman's office.

Mr. JENNER. Who was present?

Mr. COLSON. I was, Ehrlichman, Dean, I think Ken Clawson, probably Dick Moore, all of the White House staff, and maybe Mr. Kehrli.

I mentioned that people should be very careful what they do. Just this morning, I had learned that Hunt had been ordered out of the country and I exploded over that.

Mr. JENNER. Again?

Mr. COLSON. No, no. I was telling Mr. Ehrlichman that I had exploded over that when I heard it. And Mr. Ehrlichman turned to Dean and said, well, was it turned off?

And Dean said, no, it was too late to turn it off.

Mr. JENNER. All right, now, may we proceed to Tuesday, June 20—

The CHAIRMAN. Just a minute, Mr. Jenner.

Ms. Holtzman.

Ms. HOLTZMAN. Since my name has been used by the witness, I would like to assure him and the committee that the witness should on no account, certainly not on my account, withhold any evidence or testimony that he feels is relevant.

Mr. COLSON. Thank you, ma'am.

The CHAIRMAN. Please proceed, Mr. Jenner.

Mr. JENNER. Thank you.

That is Tuesday, June 20, 1972.

Mr. COLSON. Yes, sir.

Mr. JENNER. Did you have a meeting with President Nixon on that day?

Mr. COLSON. Yes, I did.

Mr. JENNER. At approximately what time, if you can recall, or do you have anything to refresh your recollection?

Mr. COLSON. Well, the log shows from 2:20 to 3:30 on the afternoon of June 20, in the President's EOB office.

Mr. JENNER. And that meeting was generated in what fashion?

Mr. COLSON. The President had asked me to come in, called me on the phone and asked me to come next door.

Mr. JENNER. Now, who was present in the EOB office other than yourself and President Nixon? If anybody?

Mr. COLSON. There were just the two of us.

Mr. JENNER. All right. Tell us what that conversation was—what you said, what the President said, to the best of your recollection.

Mr. COLSON. That was the day that the Washington Star carried that banner headline that I described earlier and the President called me in to tell me not to feel badly about it, that the press was not really trying to get me, they were just trying to get to the President. He said that he knew I would not have anything to do with anything as stupid as the Watergate; that he was not bothered by the headline in the newspaper.

I apologized for it. I said that I'm sorry, I was apparently unwittingly the tool of the publicity drawing this thing into the White House. I am certain that I assured him that I had nothing to do with it.

He talked quite a bit about not letting the press bother you. I think he could tell that I was very upset about it.

Mr. JENNER. Mr. McCord—Mr. Colson, I want to give you this opportunity. You told the President that you had nothing to do with it. What was the fact?

Mr. COLSON. That was the fact.

Mr. JENNER. Thank you.

Proceed, please.

Mr. COLSON. I hope I never lied to the President, and I certainly didn't in that case.

It took me a long time to persuade people. I had to take a lie detector test that I hadn't anything to do with the Watergate, Mr. Jenner, which I will be glad to give to the committee.

We talked a lot about not letting the press get you down, a kind of philosophical discussion. He talked about, I think on that occasion—I know he certainly did on many other occasions around the same period of time—his dissatisfaction with the campaign committee, the way it was organized, the fact that it had too much money, the fact that the payroll was too fat, that there were too many people over there, that there were a lot of people that were there as professional mercenaries; that mercenaries didn't belong in a political campaign; people should be in a campaign because they believed in what they were doing, not because they were being paid. He wanted all the salaries cut. He wanted the number of people in the committee cut. He wanted the committee better managed. He said it had gotten out of control, that too much money breeds things like the Watergate.

Throughout this, he was being very compassionate and concerned with my state of mind because he knew I was taking, at that point, a lot of publicity heat.

We also talked about some of the dirty tricks that the Democrats had played on the President in years gone by. He told me that his airplane was bugged in 1969, that his office at one time had been broken into. He said, you know, they—we have always been pure about these things and they have pulled this stuff on us. He was saying, we have to be able to counter back—he was talking now in a political sense—by pointing out all the things they have done to us over the years.

I remember one thing specifically he said: It's a double standard when the press glorifies someone like Ellsberg for stealing national security documents, but pillories people for breaking into a political campaign in this kind of a way.

We talked a little bit about the policies of the issue. And that is as much as I remember of that conversation.

MR. SEIBERLING. Mr. Chairman, a point of clarification.

THE CHAIRMAN. Mr. Seiberling.

MR. SEIBERLING. I am not clear whether this took place on the 20th or whether Mr. Colson intended to indicate that it took place then or some other time in that general time frame.

MR. COLSON. Well, one aspect of it, Congressman Seiberling, took place several times during this period. That was the President's discussion about his complete dissatisfaction with the campaign committee, its mismanagement, too much money, too many people, overpaid. I think we undoubtedly talked about it that day because we talked about it so many times during that period and I just have a feeling it started that day. I can't be sure.

MR. RANGEL. Mr. Chairman, point of clarification.

THE CHAIRMAN. Mr. Rangel.

MR. RANGEL. Could our Counsel inform the committee the status of this tape if one is supposed to exist?

THE CHAIRMAN. Mr. Jenner?

MR. JENNER. I beg your pardon, Mr. Chairman.

THE CHAIRMAN. Mr. Rangel has addressed a question to you.

MR. RANGEL. Whether you can inform the committee as to the status of this taped conversation if in fact one exists.

MR. JENNER. It has been subpoenaed but not produced.

MR. WALDIE. Mr. Chairman.

What was the time of this conversation?

MR. COLSON. It was at 2:20 in the afternoon it began; it ended at 3:30 in the afternoon.

MR. WALDIE. Thank you.

MR. JENNER. Were either Mr. McCord or Mr. Hunt discussed during this conference?

MR. COLSON. I know Mr. McCord was. I would have to give the same kind of answer I gave to Congressman Seiberling a few moments ago. I know his name came up several times in conversations with the President during this period. I assume it came up on June 20. I expressed by view that anybody being paid \$4,000 a month was outrageous in a campaign—I had read that McCord was being paid that

much. I may well have said that Hunt had been in the White House, but we had determined that he was off the rolls. I can't imagine that I would not have told the President that, but I just don't independently recall it.

Mr. JENNER. Mr. Colson, during the course of that discussion and mentioning Mr. Hunt, was anything said about the fact that Mr. Hunt had been involved in the Ellsberg break-in?

Mr. COLSON. I don't recall discussing that with the President at any time, sir.

Mr. JENNER. I see. Now, you were aware at that time that he had been, were you not?

Mr. COLSON. Sir.

Mr. JENNER. You were aware at that time that he had been involved in the Ellsberg break-in?

Mr. COLSON. Yes; I was.

Mr. JENNER. Do you recall whether you said anything about the fact that you had learned not that morning from Mr. Dean that Hunt had been ordered out of the country, or at least out of the particular venue?

Mr. COLSON. Well, that is altogether possible that that came up. I might well have mentioned the incident as an example of stupidity. I don't recall it.

One of the difficulties I have, and I am prompted to say this by Congressman Rangel's question, which is a very good one, these were very hectic days—June 18, 19, 20, and it is very hard to separate what was said in one conversation from what was said in another. I have been through enough in the last 2 years that I don't want to go through anything like it again, and I am trying to be as precise as I can but at the same time as helpful as I can to the committee. The difficulty is I don't want to say something was said in one meeting and then discover later when the tapes are made available that it was said at another meeting, because it was said at another meeting.

Mr. JENNER. I am sure the committee will keep that in mind.

Mr. COLSON. I have an excess of caution about that. I will tell you what I specifically remember and I will try to put it in the right time period, like these 3 or 4 days, but it is difficult to pin it to a particular meeting.

My notes, I might add, I have gone back and reviewed and they don't help me. They have a discussion of a whole lot of other things I was working with the President on at this time, including a freeze on meat prices, which is something we did later that week, and it was something I was handling for him—political problems, other problems.

Mr. JENNER. Do you recall on Saturday, when I interviewed you at this point, I asked you what your frame of mind was as to your view as to whether CRP was involved in the Watergate break-in, and you responded. Would you assume that to be a question and respond to it, please?

Mr. COLSON. Yes; I will, Mr. Jenner.

Let me add one other thing. In that conversation with the President in the EOB on Tuesday, the 20th, or in one of the surrounding phone conversations, or both, I do have a distinct memory of the President saying that we must not let this bog us down in the White House the

way we got bogged down in the ITT case and we have got to keep on doing our job and not let this become a distraction and not get absorbed in it or obsessed by it, as we did in the ITT case.

Now, to your question about my state of mind. My belief was that I just could not imagine that someone at the Committee for the Re-Election hadn't had something to do with this. I didn't think it was a coincidence that Mr. McCord was found in the, on the premises at the break-in, and Mr. McCord, it had been reported, was on the payroll of the committee. I didn't talk to anyone at the committee and I didn't ask anyone at the committee, but it was just my belief that that must have been the case.

Mr. JENNER. All right, sir. Turning to——

Mr. WALDIE. Mr. Chairman.

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. May I ask a point of clarification?

Did the witness say that his notes on that meeting of the 20th with the President reflected no conversation about Watergate?

Mr. COLSON. No; I said, Mr. Waldie, that my notes weren't very helpful in terms of reconstructing what was said. I remember that afternoon, for example, when we were talking about the Watergate, I was not taking any notes, because we were just talking kind of philosophically about——

Mr. WALDIE. Then do the notes reflect any conversation about Watergate is the first question I would like the counsel to ask. And secondly, do we have a copy of those notes?

Mr. JENNER. Would you respond to those questions, please?

Mr. COLSON. Yes, sir.

On the second part of that question, no. All of my notes of conversations with the President are in the files at the White House. I don't have any of them.

The last time I looked at them was 8 or 9 months ago. My recollection is that the notes around this period aren't very helpful. The only thing I found in the notes, and I am just going by memory now, is that there was something about comparing the Ellsberg matter, or the Pentagon papers matter, to the Watergate matter, the double standard. I remember that point was in the notes.

Mr. JENNER. Excuse me, were those notes respecting your conversation with the President? The notes to which you referred just a moment ago, are they notes that you took during your conversation with the President?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you turn now to Thursday, June 22. Do you recall a meeting you had that day, or if you did, with Mr. Mitchell, Mr. Haldeman, Mr. Ehrlichman, and Mr. Harlow?

Mr. COLSON. Yes, sir.

Mr. JENNER. Where was that meeting held?

Mr. COLSON. In Mr. Haldeman's office. That was the regular 10 o'clock meeting that Mr. Latta was inquiring about before. It didn't occur. I mean, it started and then it disintegrated because Haldeman had to go in and see the President and I think Mr. MacGregor was coming in and out at that point.

Mr. JENNER. Did you have a conversation with Mr. Mitchell during the course of that meeting or as it was breaking up, as the case might be?

Mr. COLSON. No; when I walked into the office, Mitchell was the only one there and I—I'm sorry. Mr. Mitchell was there and someone else; I am not sure who. There were two people.

I simply, at the outset of the meeting, said—I said to Mitchell, "I hope my friend, Howard Hunt, was not involved in the Watergate."

And he said, "I'm sorry to tell you he was into it up to his ears."

Mr. JENNER. Now, during the remainder of June and through July and into August, did you have additional conversations and discussions with the President, either in his office, the Oval Office or the EOB office or by telephone respecting political implications of Watergate?

Mr. COLSON. Well, from time to time, as Watergate—

Mr. JENNER. I take it you did have some conversations on that subject; is that right?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell us about them, please?

Mr. COLSON. I don't know that I can separate out the time we are talking about, whether it was July or August, September, October. From time to time, there would be either a news account that would catch the President's attention or there would be the lawsuit by the Democratic National Committee against CREP. Things would happen—the Patman hearings or the proposed hearings by Congressman Patman's Committee—that would cause the President and I to talk about the political implications of Watergate, how to answer some of the charges, how to try to distract attention away from it as a political issue. We were always—his discussions with me, at least, all through this period were in relation to how to handle it as a political issue.

Mr. JENNER. Have you concluded your answer, Mr. Colson?

Mr. COLSON. Yes, sir.

Mr. JENNER. In the course of these discussions that you have mentioned, was the subject matter of Mr. Mitchell's possible involvement in the Watergate break-in and the events subsequent thereto a subject of conversation with the President?

Mr. COLSON. I don't recall in this time period discussing any possible role of Mr. Mitchell.

Mr. JENNER. During that period of time, the time frame you have now fixed, the latter part of June or all of June, July, August, September—was the subject matter at all, at any time, of Mr. Hunt's involvement in the Ellsberg break-in raised during the course of any discussion you had with the President?

Mr. COLSON. No. I say no. I certainly don't recall it because I don't recall ever discussing the Ellsberg break-in with the President.

Mr. JENNER. Or any connection by Mr. Hunt with that break-in?

Mr. COLSON. No, sir.

Mr. JENNER. Now, in mid-August 1972—excuse me.

Did you receive a letter from Howard Hunt on or about August 9, 1972?

Mr. COLSON. Yes, I did.

Mr. JENNER. And members of the committee, that is one of the exhibits in the envelope you received this morning and we will identify that as Colson Exhibit No. 10.

[The document referred to was marked Colson exhibit No. 10 and follows:]

[Colson Exhibit No. 10]

3898

HOWARD HUNT

August 9, 1972

Dear Clunker:

In the midst of this imbroglio comes the thought that discreet reprisals ought to be taken against the HEW employees who insisted that I be removed from Hullen's HEW account. They did this on the 21st of June, pre-judging me, and resulting in my being fired by the Hullen Company. The latter move, of course, has the public effect of convicting me and seems gratuitous and unwonted.

The officials in question are both Democrats of the McGovern stripe: Dr. Edwin H. Martin of the Bureau of Education for the Handicapped, and Harvey Liebergott, his understrapper who works at the OE office in Boston, and is the project officer.

Let me say that I profoundly regret your being dragged into the case through association with me, superficial and occasional though the association was. What small satisfaction I can dredge up at the moment is the knowledge that I was ^{not} responsible for the affair or its outcome. All this pales, of course, beside the overwhelming importance of re-selecting the President, and you may be confident that I will do all that is required of me toward that end.

Sincerely,



Mr. SANDMAN. Mr. Chairman, would counsel please identify it again?

Mr. JENNER. Yes, thank you, I will do so.

It is an exhibit, one single page, has the No. 3898 at the top. It is a letterhead with printed, "Howard Hunt" in the center, dated August 9, 1972, and addresses the witness as "Dear Chuck." The leave taking is "Sincerely, Howard."

It is attached to a memo. The number at the top of the memo—that is the previous sheet in the envelope you received—is No. 3897, Exhibit No. 157, dated August 11, 1972, memorandum for John Dean from Chuck Colson, which, Mr. Chairman, if you will permit, may we mark that as Colson Exhibit 10A?

[The document referred to was marked Colson exhibit No. 10A and follows:]

[Colson Exhibit No. 10A]

3897

EXHIBIT No. 157

August 11, 1972

MEMORANDUM FOR: JOHN DEAN

FROM: CHUCK COLSON

Attached is the first communication that I have received from Howard Hunt -- written or oral -- since the Watergate affair; in fact, since long before the Watergate affair. Obviously I have not acknowledged the attached nor do I intend to unless you think otherwise.

Mr. JENNER. The other will be 10, despite the difference in date.

Now, will you recite for us what you did with exhibit 10, the letter from Howard Hunt dated August 9, 1972, and the relationship of that exhibit to exhibit 10A, which is a memorandum dated August 11, 1972, from you to John Dean, and relate the course of events that brought this about and what occurred.

You first received Mr. Hunt's letter?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right. Proceed from there, please.

Mr. COLSON. After I received Mr. Hunt's letter, I did what was then standard practice for all of us in the White House, since Mr. Dean was handling the Watergate matter and handling the investigation and acting as Counsel for all of us and collecting all of the material. I sent the Hunt letter to—

Mr. JENNER. That is exhibit 10.

Mr. COLSON. Exhibit 10 [continuing]. To Mr. Dean by way of the memorandum which covers it, saying "Attached is the first communication that I have received from Howard Hunt".

Mr. JENNER. And the memorandum attached is exhibit 10A?

Mr. COLSON. 10A; yes, sir.

Now, I said in the memo to Dean: "Obviously, I have not acknowledged the attached nor do I intend to unless you think otherwise."

I did feel very badly for my friend Hunt and I, a couple of days later or maybe a week later, asked my secretary to please try and get in touch with Hunt through his lawyer and give him an oral message for me, since I could not acknowledge his letter.

Mr. JENNER. Now, did your secretary get in touch with Mr. Hunt?

Mr. COLSON. Yes, sir.

Mr. JENNER. And did she record that event in any fashion?

Mr. COLSON. Well, she took down notes from me as to what I asked her to tell Mr. Hunt, which notes I have now seen.

Mr. JENNER. All right. Would you just hold on a minute, please.

Ladies and gentlemen of the committee, Mr. Colson, and Mr. St. Clair, the document that reads at the top, "Being taken care of—as you know."

Then the lower portion carries an imprint of a—

Mr. COLSON. That is not what I dictated to my secretary.

Mr. JENNER. I am just identifying the exhibit first. Mr. Colson.

Then there is printed in the center of the exhibit "The White House; Washington". That document may we mark, Mr. Chairman, as Colson's exhibit No. 11?

The CHAIRMAN. That will be so identified.

[The document referred to was marked Colson exhibit No. 11 and follows:]

[Colson Exhibit No. 11]

Being taken care of -- as you know.

Thanks -- will probably go to prison soon but even so my lips are sealed.

"Jim" -- told him we shouldn't -- the "big boy" insisted they go ahead.

Knew we shouldn't when I saw the tape on the door.

John Dean order him out of country -- he also ordered or gave Justice permission to open it. The stuff in there was bad.

Lambert came with instructions from CWC to see what was in safe.

THE WHITE HOUSE
WASHINGTON

THE WHITE HOUSE
WASHINGTON

Handwritten notes:

June - 4 - L... on 5-8-73
6-2 (2) 2 (WC) 12-9-
6-6-
6-11-
Liddy
3

Mr. JENNER. And the other document that has been received by you, which is all in typing and the first line of which reads, "Got letter and obviously can't answer it."—we will mark that as Colson exhibit No. 12.

The document with the printed letters, "The White House," that I first mentioned is marked Colson exhibit No. 11 and is second document I have identified by reading the first line as Colson exhibit No. 12.

The CHAIRMAN. That is correct.

Mr. JENNER. Thank you.

[The document referred to was marked Colson exhibit No. 12 and follows:]

[Colson Exhibit No. 12]

1. Got letter and obviously can't answer it.
2. Consider him and old and dear friend and really am feeling for him terribly but since I have been pilloried over this and unfairly involved I obviously can't be in touch with you.
3. As soon as the election is over I plan to be in touch and will do anything I can to help in any and all ways.
4. As far as I am concerned he is really royally mad at whoever used him if in fact he was used. He will make it a crusade in life to get even with the SOB who involved you.
5. C and everybody appreciate enormously your loyalty and feel terrible at what has happened. Sorry he ever recommended you for this one but don't be discouraged because I am positive it will turn out o.k.

Mr. JENNER. Now, tell us what Colson exhibit No. 12 is.

Mr. COLSON. Exhibit No. 12, I guess, is what Joan Hall typed up after I told her what—the message that I would like her to pass on to Howard Hunt.

Mr. JENNER. You say you guess. Is this her version of what you dictated to her?

Mr. COLSON. This apparently she had and gave to my counsel, Mr. Shapiro, last March—March of 1973. She had this and exhibit 11 in her possession. I saw them for the first time March of 1973. I believe this is what I told her to say to Hunt.

Mr. JENNER. Fine. That is really what I was seeking. When you say you believe this is what you told her to say to Hunt, are you referring to Colson exhibit No. 12?

Mr. COLSON. Yes, sir, exhibit 12.

Mr. JENNER. As well as 11?

Mr. COLSON. No.

Mr. JENNER. All right. Now, identify No. 11 and its relationship to No. 12.

Mr. COLSON. Well, I have to go through, I think, the sequence, Mr. Jenner.

Mr. JENNER. Fine.

Mr. COLSON. I told Joan Hall sometime after I had received that letter that she should call, as I said earlier.

Mr. JENNER. When you say “that letter” it is exhibit 10?

Mr. COLSON. Exhibit 10.¹

She should call Hunt and tell him I got the letter, I can’t answer it and the various points I made here—I consider him an old friend, and on through the five items contained in exhibit 12.

One day—I think in August—Mrs. Hall has an affidavit on this which we can give you if you don’t have it—one day late in August, she came back into my office one day and she said that she had delivered my message to Hunt. He, Hunt, had gotten the message from his lawyer that she wanted to talk to him. Hunt had called her at home. She had a lot of people in the room and could not talk to him. And she said he said a lot of things over the phone he should not have said, he started telling me a lot of things.

And she said, let me tell you what he said. And she had some notes in her hand.

I said, I don’t want to know about it, Joan. I don’t want any messages from Hunt, direct or indirect, through you or anybody else—which was a point I made to her on two or three occasions. She did not tell me what Hunt had said and as a matter of fact, I didn’t know the contents of her shorthand notes until March of 1973. I did tell her, however, that if he said anything important, she should take it down and give it to, tell it to John Dean.

Mr. JENNER. I take it, then, that Colson exhibit No. 11, the lower portion thereof, represents your secretary’s stenographic notes. Is that correct?

Mr. COLSON. Yes, I assume those are notes taken on a little White House memo pad and then retyped—I mean typed from those shorthand notes up at the top.

Mr. JENNER. And the typing at the top of exhibit 11 is her typing of her notes that appear on the bottom of exhibit No. 11.

¹ See p. 272.

Mr. COLSON. I think that is, yes, sir.

[Material unrelated to testimony of witness deleted.]

Mr. JENNER. Now, Mr. Colson, would you read for the committee your secretary's typing of her notes that appears in the top six or seven lines of exhibit 11.

Read aloud, please.

Mr. COLSON. "Being taken care of—as you know.

"Thanks—will probably go to prison soon but even so my lips are sealed.

"'Jim'—told him we should not—the 'big boy' insisted they go ahead."

Mr. JENNER. "Big boy" is in quotes?

Mr. COLSON. In quotes, I'm sorry.

Next line, "Knew we should not when I saw the tape on the door.

"John Dean ordered him out of country—he also ordered or gave Justice permission to open it. The stuff in there was bad.

"Lambert came with instructions from CWC to see what was in safe."

Mr. JENNER. Who is Lambert?

Mr. COLSON. Lambert is a reporter from Life magazine who had been dealing with Hunt and had called Hunt and later called my office and wanted to give me a message from Hunt, and Joan Hall told him I was not accepting any messages.

Mr. JENNER. The "CWC." Whose initials are those?

Mr. COLSON. That is me.

Mr. JENNER. Charles W. Colson.

Mr. COLSON. Yes.

Mr. JENNER. Now, in the third line, there is the proper name "Jim," in quotes. To whom does that refer?

Mr. COLSON. I don't know. I would have to assume McCord, but that is merely an assumption.

Mr. JENNER. Then the quoted words "big boy." To whom do they refer?

Mr. COLSON. I have no idea.

Mr. JENNER. Do you now know from having examined your secretary's affidavit?

Mr. COLSON. I don't think she says. The affidavit simply says that she tried to come in and tell me and I would not talk to her about it, would not listen to her.

She does not say.

Mr. JENNER. Thank you.

Ladies and gentlemen of the committee, Mrs. Hall's affidavit has heretofore been presented in your books. For the purpose of refreshing your recollection, she swears as of April 13, 1973, that during the period October 1969 through January 1973 she was Mr. Colson's personal secretary; that sometime later in August of 19—Mr. Nussbaum has now stated to me that I was in error in saying that the affidavit was in your books. Learning now that it is not, may I continue to read it or summarize it for you and we will duplicate it? It is in the envelope.

Mr. Chairman, may we mark the affidavit as Colson exhibit No. 13?

The CHAIRMAN. It will be so marked.

[The document referred to was marked Colson exhibit No. 13 and follows:]

[Colson Exhibit No. 13]

AFFIDAVIT

DISTRICT OF COLUMBIA, SS:

Joan Hall, being duly sworn, deposes and says:

1. During the period October 1969 through January 1973 I was personal secretary to Charles W. Colson at the White House.
2. Sometime in late August 1972, E. Howard Hunt sent Mr. Colson a letter, a copy of which Mr. Colson has in his personal files. Mr. Colson told me to turn the letter over to John Dean. Mr. Colson asked me, however, to contact Mr. Hunt and deliver the following message on his behalf:
 - (a). Mr. Colson received the letter and obviously cannot answer it.
 - (b). Mr. Colson considers Mr. Hunt an old and dear friend and feels for him terribly, but since Mr. Colson has been pilloried over the Watergate incident and unfairly involved in it, he obviously cannot be involved in it, he obviously cannot be in touch with him.
 - (c). As soon as the election is over, Mr. Colson plans to be in touch with Mr. Hunt and will do anything he can to help him on a personal basis.

(d). As far as Mr. Colson is concerned, he is really royally angry at whoever used Mr. Hunt -- if in fact he was used. Mr. Colson said he will make it a crusade in life to get even with the SOB who got Mr. Hunt involved in the matter.

(e). Mr. Colson appreciates enormously Mr. Hunt's loyalty and feels terrible at what happened. He is sorry he ever recommended Mr. Hunt for a job at the White House, but that Mr. Hunt should not be discouraged because he is positive it would turn out alright.

3. I contacted Mr. Hunt through his attorney, William Bittman. I told him that I had a message for Mr. Hunt from Mr. Colson whereupon Mr. Bittman advised me that he would have Mr. Hunt get in touch with me.

4. Mr. Hunt called me the next day or so and told me "we are being taken care of -- as you know", (which I did not know.). He further said I should relay to Mr. Colson his thanks for the message. He said he would probably go to prison but even so his lips were sealed. He further stated, "I told Jim we should not do this -- the 'big boy' insisted we go ahead. I knew we shouldn't do it when we saw the tape on the door. John Dean ordered me out of the country. He also ordered or gave Justice

3.

permission to open the safe in my office. The stuff in there was bad."


5. Following this conversation with Mr. Hunt, I attempted to tell Mr. Colson what Mr. Hunt had said. Mr. Colson told me he did not want to hear about it and that any information or communications I received from Mr. Hunt should be turned over to John Dean. I am not sure, but I do not believe I told Mr. Dean of my conversation with Mr. Hunt on this occasion. *I do believe, however, that I told Mr. Dean the substance of this conversation at a later date.*

6. On October 22, 1972, I received a telephone call from Dorothy Hunt at a telephone number I had previously given Mr. Hunt when he was working at the White House. It was a Sunday. Mrs. Hunt told me that "there were commitments made to the men involved -- promises that they would be taken care of by the first of September". She said, "I am sorry to have to bother you but there is no one else to call. They need help to handle it. There are commitments that have not been met. We are trying to do our best but we need help; there are retainers for the lawyers -- and all of this is creating a terrible amount of frustration. I cannot go through regular contacts at the Committee to find out an answer. They kept saying I would receive a telephone call and I sat by the phone every day since the first of September. I received not one call. This makes for a very bad situation. Everyone wants to hold firm, but ---".

4.

7. In the same conversation, Mrs. Hunt further told me, "nothing would have gone wrong if the original plan had not been pared down so that they were without outside help. It didn't help anything. The budget was cut to a skeleton staff and there are huge lawyers' bills, for example, and no one to contact. Our lawyer cannot even get a call answered from the Committee any more". Mrs. Hunt said she was calling from the airport and that she would try to call me back on Tuesday, October 24.

8. Either that day or the following morning, I tried to tell Mr. Colson about my conversation with Mrs. Hunt. Mr. Colson again said that he did not want to hear about it and that I should inform John Dean since Mr. Dean was handling all of these matters in the White House. On Monday -- without going into detail -- I asked Fred Fielding what I should do when Mrs. Hunt called since Mr. Dean was not in the office. Mr. Fielding said he would take it up with Mr. Dean. The next day I met Mr. Dean in the hallway and asked him what I was supposed to say or do when Mrs. Hunt called because she really sounded desperate. He said, "Forget it -- it is being taken care of."


Joan Hall

Sworn to before me this day,
13th April, 1973:


Notary Public

My Commission expires 11/30/77

Mr. JENNER. She states that sometime in late August, Mr. Hunt sent Mr. Colson a letter—that has been identified and made a part of the record.¹

That Mr. Colson told her to turn the letter over to Mr. Dean and asked her to contact Mr. Hunt and deliver the following message, which is the message that has been recited to you and appears as exhibit 12.

She contacted Mr. Hunt through his attorney, William Bittman, told him she had a message for Mr. Hunt from Mr. Colson, that Mr. Bittman advised her that he would have Mr. Hunt get in touch with Mrs. Hall; that Mr. Hunt did call her the next day; and then she recites her notes as retyped at the top, top of exhibit No. 11.

In paragraph 5 following that conversation, she attempted to tell Mr. Colson what Mr. Hunt had said; Mr. Colson said he didn't want to hear anything about it and any communications she received from Mr. Hunt, they should be turned over to John Dean. She isn't certain whether she told John Dean of her conversation with Mr. Hunt on that occasion. "I do believe," she said in longhand, when she expanded on the affidavit, however, "that I told Mr. Dean the substance of this conversation at a later date."

Paragraph 6 refers to a later event. We will turn to the affidavit at a subsequent time.

Mr. LATTI. Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Latta.

Mr. LATTI. Mr. Jenner, do you mean to tell me that you are going to not go into this matter about the "big boy" that you are referring to here in this affidavit?

Mr. JENNER. No, I didn't mean to suggest that. All I am saying is that the paragraphs 6, 7, and 8 we will return to at a later point, sir.

Mr. LATTI. Hopefully you will.

Mr. JENNER. Mr. Colson, do you know where this affidavit was executed by your former secretary?

Mr. COLSON. I think she executed it in Mr. Shapiro's office when she came over to produce her notes in March of 1973.

Mr. JENNER. And Mr. Shapiro is the gentleman sitting to your left?

Mr. COLSON. Left, yes, sir.

April—

Mr. JENNER. Yes, April 13, 1973, the date of its execution, correct?

Mr. COLSON. April 13.

Mr. JENNER. Now, passing from that affidavit only for the moment, Mr. Latta, turn to early September 1972. Do you recall having a conversation with President Nixon in early September 1972?

Mr. COLSON. Yes, sir.

Mr. JENNER. Was—perhaps to help refresh your recollection, was there a reference to Mr. Magruder during the course of that conversation?

Mr. COLSON. There was a meeting—I don't know the date of it—in early September of 1972. I think it was early September.

Mr. JENNER. I see. And where did the meeting take place?

Mr. COLSON. In the Executive Office Building. There was just the President and myself.

Mr. JENNER. In the President's office?

¹ See Colson exhibit No. 6, p. 215.

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, tell us what that conversation was.

Mr. COLSON. I don't recall—

Mr. JENNER. Well, tell us the subject of the conversation and then as best you are able to tell us, what the conversation was.

Mr. COLSON. It was the question of the possibility of Mr. Magruder being indicted. The President was asking my opinion, what I thought the consequences would be or the impact would be if Mr. Magruder were to be one of those included in the indictment. I guess I must have looked puzzled, because the President said, "Haven't Bob and John told you?" And I said "No."

He then said that Magruder may be included, or Magruder may have to assume responsibility, and I said, fine, whoever did it, we ought to get rid of him and the sooner they are exposed, the better. Which was a point of view that I had expressed many times in various staff meetings and other places during the summer of 1972.

Mr. JENNER. What was the President's response, if any?

Mr. COLSON. I don't really recall that he responded to that. I think he said something to the effect, well, it does not matter, it will all be over after the election.

Mr. JENNER. In the course of our meeting on Saturday, at least my notes show a statement by you that, "It will be all washed away after the election."

Mr. COLSON. It was something to that effect—it will all be washed away or it will all be over with, anyway, in a few weeks when the election is over.

Mr. JENNER. And that was the President speaking?

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, for the record, September 15, 1972, the first Watergate grand jury indictments were released, is that correct?

Mr. COLSON. Yes, sir, I think there was one other thing the President said on that occasion.

Mr. JENNER. Thank you. Would you tell the committee please?

Mr. COLSON. Or at least he said it a couple of other times, but I think it came up in the context of discussing Magruder. He said, "Thank God nobody in the White House was involved in this." I had made the point to him, I think in that same meeting, that I didn't think it mattered who at the Committee To Re-Elect was involved, so long as nobody at the White House had been involved. And the President said, "Thank God, nobody here was."

Mr. JENNER. Have you concluded now, that has occurred to you of which you have a recollection?

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, those indictments, as you will recall, I believe we conferred with your counsel, that no White House or CPR official was indicted.

Mr. COLSON. Well, I guess Mr. Liddy and Mr. McCord were CRP officials. And Mr. Hunt, I guess, was employed there.

Mr. JENNER. All right, I misspoke to that extent.

Those indictments, ladies and gentlemen, are in your book material.

May we turn now to October 22, Mr. Colson, 1972. As possibly refreshing your recollection, was there a call from Mrs. Hunt to your secretary, Mrs. Hall?

Mr. COLSON. Yes, sir. One day, I think it was in late October, I guess the affidavit will show, my secretary, Mrs. Hall, came to me one morning, early. I remember when I came into the office. She said she was very disturbed, because Mrs. Hunt had called her the night before at the same unlisted number—my secretary had an unlisted number. She said, she must have gotten it from Howard, which Hunt had had when he called her in August.

She said, "I am very disturbed by what Mrs. Hunt told me."

And I said, "Don't give me anything to do with the Hunts. Just whatever it is, take it right down to John Dean."

According to her affidavit, which is now exhibit 13, is it—

Mr. JENNER. Thirteen. Paragraph 6. That is the affidavit, Congressman Latta.

Mr. COLSON. She reports in there what Dorothy Hunt said to her. Then she says:

Either that day or the following morning, I tried to tell Mr. Colson about my conversation with Mrs. Hunt. Mr. Colson again said that he did not want to hear about it and that I should inform John Dean since Mr. Dean was handling all of these matters in the White House. On Monday—without going into detail—I asked Fred Fielding what I should do when Mrs. Hunt called since Mr. Dean was not in the office. Mr. Fielding said he would take it up with Mr. Dean. The next day I met Mr. Dean in the hallway and asked him what I was supposed to say or do when Mrs. Hunt called because she really sounded desperate. He said, "Forget it—it is being taken care of."

Mr. JENNER. Mr. Colson, Congressman Latta wanted to be certain I didn't pass on without inquiring of you again as to a person, if you know, or have a judgment that was in the mind or intended to be designated by Mr. Hunt in the use of the term "big boy," in Colson Exhibit No. 11.

Mr. COLSON. The problem with my trying to answer that is that I can only give you the rankest kind of opinion. Because I don't think Hunt said who it was and Mrs. Hall's opinion would not be any better than mine. I don't know. I have never heard the term "big boy" used before.

Mr. JENNER. All right.

Mr. COLSON. I can tell you, I just assumed John Mitchell when I read this, which was in April of 1973.

Mr. JENNER. Mr. Colson, you assumed also it was not the President of the United States?

Mr. COLSON. I assumed what?

Mr. JENNER. You assumed also it was not the President of the United States; is that so?

Mr. COLSON. I certainly did.

Mr. RANGEL. Mr. Chairman.

The CHAIRMAN. Mr. Rangel.

Mr. RANGEL. I wish counsel could direct a question based on the last line in that same Colson 11 concerning Mr. Lambert's instructions.

Mr. JENNER. Would you direct yourself, turn to Colson exhibit No. 11. Mr. Colson? ¹

Mr. COLSON. Yes, sir.

Mr. JENNER. And to the last line, which reads "Lambert came with instructions from CWC"—that is you—

¹ See p. 276.

Mr. COLSON. Right.

Mr. JENNER (continuing). "To see what was in safe."

Now, having called that to your attention, Congressman Rangel wishes to know and I will ask you on behalf of the entire committee what your recollection is as to Mr. Lambert coming to you with—or came to somebody, Hunt, with instructions from you to see what was in the safe.

Mr. COLSON. Mr. Lambert was a reporter who had been dealing with Hunt and I don't know. I never gave him any instructions to get in touch with Mr. Hunt, so I can't imagine what the message means, although I do know that Mr. Lambert tried to reach me with a message from Hunt after he had talked to Hunt; and my secretary, Mrs. Hall, told Lambert, forget about it, Colson won't talk to you because he does not want any information from Hunt through you or anyone else.

She has testified to that in other places.

Mr. JENNER. Is that sufficient, Mr. Rangel?

Mr. RANGEL. I guess it is the best we will get.

Mr. COHEN. Could counsel direct his attention also to Colson exhibit 12, paragraph 4.² I don't understand that.

Mr. JENNER. Mr. Colson, Congressman Cohen has asked that you direct your attention to paragraph numbered 4 in Colson Exhibit No. 12, this Exhibit No. 12 being your secretary's transcription of your directions or your dictation to her. That paragraph reads "As far as I am concerned, he is really royally mad at whoever used him if in fact he was used."

Now, would you tell us what the antecedents of those pronouns are? The first pronoun is "I". Is that you?

Mr. COLSON. I would say so.

Mr. JENNER. The next is "he". Who is that?

Mr. COLSON. That is also me.

Mr. JENNER. I am a little confused by that, but let's finish up the sentence first. The next pronoun is "whomever"—"whoever."

Mr. COLSON. That is whoever.

Mr. JENNER. And "him"—

Mr. COLSON. That is the big mystery for a long time.

Mr. JENNER. You mean "him" is the big mystery?

Mr. COLSON. No, whoever used Hunt.

Mr. JENNER. I am directing your attention to the word "him" now.

Mr. COLSON. The next time it is used, it is Hunt.

Mr. JENNER. Putting in the proper names, would you read that sentence?

Mr. COLSON. "As far as Colson is concerned, Colson is really royally mad at whoever used Hunt if in fact Hunt was used."

Mr. JENNER. Will you make the same sort of transcription with respect to the second sentence?

Mr. COLSON. "Colson will make it a crusade in life to get even with the SOB who involved Hunt."

Mr. JENNER. Does that clarify you, Congressman Cohen?

Mr. COHEN. Yes.

Mr. SEIBERLING. Mr. Chairman, this is also stated on pages 1 and 2 of Mrs. Hall's affidavit.

² See p. 278.

Mr. McCLODY. A point of clarification. Colson Exhibit No. 12 is a letter to Hunt or a memo to Hunt?

The CHAIRMAN. This is Colson's secretary's notes of what Colson told her in his trans—her transcription.

Mr. McCLODY. I don't understand the last "you" being—well, "him" is Hunt. "He" is Hunt. And "you" is Hunt. Hunt is both the third person and the second person.

Mr. JENNER. Mr. Colson, would you restate those two sentences slowly and put in proper names for the pronouns so that all of the committee may make notes and read the two sentences slowly.

Mr. COLSON. Let me recommend that you read the actual affidavit where, when my secretary executed it as an affidavit, she cleared that all up. That reads: "As far as Mr. Colson is concerned, he is really royally angry at whoever used Mr. Hunt—if in fact he was used. Mr. Colson said he will make it a crusade in life to get even with the SOB who got Mr. Hunt involved in the matter."

Mr. JENNER. Congressman McClory, that is paragraph (d) at the top of page 2 of Mrs. Hall's affidavit.

Mr. COLSON: Did you in fact, at any subsequent time have a conversation with Mr. Hunt?

Mr. COLSON. I did talk to Mr. Hunt in November, mid-November of 1972, yes, sir.

Mr. JENNER. To be more specific, was it November 13, 1972?

Mr. COLSON. I don't know. I never knew the date of it. That date was established by John Dean. I would have guessed it was later than that.

Mr. JENNER. In any event, you did have a conversation with Mr. Hunt in mid-November, 1972, correct?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right. Did he call you or did you call him, or was it a face-to-face meeting?

Mr. COLSON. No, it was a telephone conversation. My recollection is that Hunt, that Hunt first called me.

Mr. JENNER. Where were you?

Mr. COLSON. In my office.

Mr. JENNER. Proceed.

Mr. COLSON. I didn't take the call. I got in touch with John Dean and asked him whether he had any objection to my talking to Hunt now that the election was over and there was less risk of my being an unwitting instrument of bringing the thing into the White House.

Mr. JENNER. Mr. Colson, in order to make sure the record is clear, I take it Mr. Hunt called you, you didn't talk to him immediately?

Mr. COLSON. That's my—

Mr. JENNER. You said you received a message that he had called, correct?

Mr. COLSON. Yes. Right.

Mr. JENNER. And then you spoke with Mr. Dean?

Mr. COLSON. I then spoke with Mr. Dean.

Mr. JENNER. Then what happened?

Mr. COLSON. Then I think I told my secretary to get in touch with—no, I don't know. Maybe I called. No, Hunt called me. I don't know how it came about. Maybe the first time he called I said to my secretary tell him to call back later. I must have done that.

Mr. JENNER. In any event, during the course of that sequence of events that day, you talked with Mr. Hunt?

Mr. COLSON. Yes, sir.

Mr. JENNER. By telephone?

Mr. COLSON. Yes.

Mr. JENNER. Tell us what the conversation was.

Mr. COLSON. Well, we have a transcript of it because I recorded it.

Mr. JENNER. All right and that, Mr. Chairman, could we mark that an exhibit, a 4-page exhibit as Colson exhibit number——

The CHAIRMAN. 14.

Mr. JENNER. 14.

[The document referred to was marked Colson exhibit No. 14, and follows:]

[Colson Exhibit No. 14]

3888

EXHIBIT No. 152

Conversation with Howard Hunt, late November, 1972

- H. . . . Hi,
- C. How we doing?
- H. Oh, about as well as could be expected. How are you?
- C. Just about the same. Trying to hold the pieces together.
- H. Congratulations on your victory.
- C. Thank you. I'm sorry that we haven't been celebrating it together with some good champagne and some good Scotch, but . . .
- H. There may yet come a time.
- C. There may, I assure you. Before you say anything, let me say a couple things. One, I don't know what is going on here, other than, I am told that everybody is going to come out alright. That's all I know. I've deliberately not asked any specific questions, for this reason. That I have my own ideas about how things will turn out and I'm not worried about them and you shouldn't be, but I've always thought that if it came to an open trial, that I would want to be free to come into it and character and testimony and etc. etc. This way, the less details I know of what's going on in some ways the better.
- H. I appreciate that.
- C. If you follow. So, I have tried to stay out of asking specific questions and it's very hard for me to do that for the reason that you're an old and dear friend and I'm sure you regret [sic] the day I ever recommended you to the White House.
- H. Not in the least. Chuck, I'm just sorry that it turned out the way it did.
- C. Well, I am too, obviously and I hope to hell you had nothing to do with it and I've clung to that belief and have told people that and if you did have anything to do with it, I'm goddamn sure it's because you were doing what you were told to do.
- H. That's exactly right . . .
- C. Because you're a loyal soldier obviously and always have been . . .
- H. Would you be willing to receive a memorandum from me?
- C. Yea . . . the only . . .
- H. Because I think it might help you.
- C. Except there are things you may not want to tell me.
- H. No, there's really nothing I don't want to tell you. I would think that you could receive this memorandum, read it and destroy it.
- C. Nope.
- H. You couldn't do that?
- C. Nope. The reason I can't is the same reason your letter to me, when I got that and then I was asked by Federal authorities, did . . . had I had any communication and I said yea I've received this letter and here it is. I can't and you can't get in the position where you're purguring [sic].
- H. No, of course not. And I'm afraid John Mitchell has already done.
- C. The problem is, you see, I don't want to get into the position of knowing something that I don't now know for the reason that I want to be perfectly free to help you and the only way I can help you is to remain as completely unknowing as I am. See, my problem . . . let me tell you the problem. Is that . . . I could do you a lot more good by not . . . by honestly being able to testify that I don't know, I just don't know the answer and I don't. And right now I don't know anything about the goddamn Watergate. Now, supposing Teddy Kennedy holds his hearings and I get called up there. Well, I can't refuse to answer and I wouldn't. I'd answer I just don't know. I have no idea what happened and I don't.
- H. Of course I'm never going to be put on the stand, as it stands now.
- C. That's right.
- H. And so I won't have the opportunity to say one thing or another.
- C. You don't want to.
- H. You wouldn't be willing to talk to my attorney? Wouldn't that be a different affair?

- C. Uh, I don't know, Howard. I don't know whether it is or it isn't. He would know best.
- H. That was a suggestion of his.
- C. Well, hell, I'll talk to him. That's not a problem. I'll be glad to talk to him. I'm sure that you're being watched.
- H. Oh, I am too.
- C. And not by federal authorities. I'm sure the Washington Post is watching you.
- H. Oh, yea. Well, the reason I called you was to make . . . to get back to the beginning here is because of commitments that were made to all of us at the onset, have not been kept, and there's a great deal of unease and concern on the part of 7 defendants [sic] and, I'm quite sure, me least of all. But there's a great deal of financial expense that has not been covered and what we've been getting has been coming in very minor gifts and drabs and Parkison, who's been the go between with my attorney, doesn't seem to be very effective and we're now reaching a point of which. . . .
- C. Okay, don't tell me any more. Because I understand and
- H. These people have really got to . . . this is a long haul thing and the stakes are very very high and I thought that you would want to know that this thing must not break apart for foolish reasons. Oh, no. . . .
- C. Oh, no, everybody. . . .
- H. While we get third, fourth hand reassurances, still the ready is not available [sic]. That's the basic problem.
- C. I follow you. Okay, you told me all I need to know and I can . . . the less I know really of . . . what happened, the more more help I can be to you.
- H. Alright, now we've set a deadline now for close of business on the 25th of November for the resolution on the liquidation of everything that's outstanding. And this . . . they're now talking about promises from July and August. It just has been an apparent unconcern. Of course we can understand some hesitancy prior to the election, but there doesn't seem to be any of that now. Of course we're well aware of the upcoming problems of the Senate and
- C. That's where it gets hairy as hell. See, for your information, Howard, . . . of course this thing has hurt us all because everybody . . . it's just unfortunate as hell, but the Democrats made such an issue out of the whole
- H. Well, on the other hand, it kept them from the real issues.
- C. Well, I always thought when I write my memoirs of this campaign, that I'm [sic] going to say that the Watergate was brilliantly conceived as an escapade that would divert the Democrats' attention from the real issues and therefore permit us to win a landslide that we probably wouldn't have had otherwise. Seriously
- H. Whether you believed it or not.
- C. No, listen, I think there's a good bit of validity to that.
- H. I do too.
- C. Dumb bastards were on an issue that the public couldn't care less about.
- H. See, I haven't known at any time what sort of an input you were getting from Dean and other people about who was responsible. . . .
- C. Minimum.
- H. . . . about who was responsible for all this.
- C. Minimum for very good reasons because if somebody told me . . . let me tell you the position I'm in. Whether I stay in the White House for a while or whether I leave, doesn't matter. I want to be in a position to help you. Okay, that means I have to openly talk to people and no matter who it is, from a character standpoint or anything else, be able to say things about you that I want to say. Now, I can't do that the moment I know something that makes it impossible for me to talk to people and the moment that I know something that makes it impossible for me to talk to people, then I've got to be kept in the background and can't talk and I want to talk, so long as I can help you and I'm going to see that you don't get a bad break out of this and I'll tell you sometime about that.
- H. I would hope that somewhere along the line the people who were paralyzed initially by this within the White House could now start to give some creative thinking to the affair and some affirmative action for Christ sake.
- C. That's true.

- H. I think now is the time for it and we expect it now and we want it and the election is out of the way, the initial terror of the number of people has subsided. Some people have already left the Administration and that's all to the good. So, now it's pared down to the point where a few people ought to really be able to concentrate on this and get the goddam thing out of the way once and for all because I don't want to bore you with what it's been like, but it hasn't been pleasant for any of us.
- C. Jesus Christ, I know it. I hope you're doing some writing to keep yourself busy.
- H. Oh, I am. I don't know if anything will ever come of it, but it's a good . . . it keeps my mind from my plight, let's put it that way. So that I was never clear in my own mind, and I'm still not, and . . . that one of the initial outputs that I had read about was that while this is done by a bunch of wild assed guys and so forth . . . well, that's fine for we're protecting the guys who are really responsible, but now that that's . . . and of course that's a continuing requirement, but at the same time, this is a two way street and as I said before, we think that now is the time when a move should be made and surely the cheapest commodity available is money. These lawyers have not been paid, there are large sums of money outstanding. That's the principal thing. Living allowances which are due again on the 31st of this month, we want that stuff well in hand for some months in advance. I think these are all reasonable requests. They're all promised in advance and reaffirmed from time to time to my attorney and so forth, so in turn I've been giving commitments to the people who look to me and. . . .
- C. I'm reading you. You don't need to be more specific.
- H. I don't want to belabor it.
- C. No, it isn't a question of that, it's just that the less speeciis [sic] I know, the better off I am . . . we are, you are.
- H. So, Parkison is out of town until next Monday, at which time a memorandum is going to be laid on him and he's going to be made aware . . .
- C. I'll tell you one thing I've said to people, and I just want you to know this because I think it's important. I've told people the truth that I've known you for a long time, that I've considered you a personal friend, you're a person in whom I've had high regard and high confidence, a patriot, real patriot, and that had you ever been the one mastermineding [sic] this, it never would have fallen apart, that the reason that I am convinced, and I told this to the federal authorities on the grand jury, the reason that I'm convinced that you Howard Hunt never had a goddam thing to do with this or if; you did, it was on the peripheries, is that if you ever did it, you would do it a lot smarter than this and that I've know [sic]
- H. Chuck, if I had had my say, it never would have been done at all. Let me put it that way.
- C. Say no more.
- H. . . . the position of another fellow too.
- C. Say no more.
- H. . . . high risk ballgame.
- C. Well obviously I never knew about . . .
- H. That's right and I've always maintained to my attorney who of course has my complete confidence in this matter, that you absolutely had nothing to do with it.
- C. If I had ever known it was coming I would have said to you as a friend, if some asshole wants to do this, fine, but don't you get involved. I mean, if you and I, if we've ever had a conversation like that, I would have said, my God, . . . but the point I've made is that you're a smart . . . among many other qualities, you are a brilliant operator and brilliant operators just don't get into this kind of a thing, so I've held and I was asked . . . and this is why I don't want to know any different, this is why I was asked by the Bureau, well, what about Hunt? And I could honestly say, look, I've known this guy a long time, he's a very smart fellow and I can't for the life of me conceive that he would ever get himself into this kind of situation, so I want to be able to stay in that position. That's why I don't want you to tell me anything beyond that. Give my love to Dorothy, will you?
- H. All right I will.
- C. I know it's hard on you and the kids and
- H. It's awful tough. My daughter up at Smith is really getting a rough time.
- C. Is she really?

- H. Very, very hard time.
- C. Well, you know, I'll tell you, I find it's only the rough experiences in life and you've had your share of them, god knows, that really harden you and make something out of you, and you learn by them and become a better man for it and we'll talk about that. You'll come out of this fine, I'm positive of that.
- H. Well, I want all of us to come out of it, including you.
- C. My position, I suppose has been hurt in one sense, that I've been publicly but obviously people around here know I didn't have anything to do with it, but so be it. We'll all come out of it, don't worry about that. That's the last thing to worry about and I understand this message . . .
- H. If; you can do anything about it . . . I would think the sooner they can get moving on it the better. Good to talk to you. I'll discuss with Bittman whether he still feels he needs to talk with you.
- C. Alright and as soon as I feel that the situation, the future of the thing is clear enough that you and I can get together, we'll damn well do it, but I don't want to do it pre-maturely because it will limit my ability to help you.
- H. Chuck, I understand that completely. I, [sic] That's why I never tried to get in touch with you.
- C. Im [sic] in a better position to help you if I can honestly swear under [sic] oath, which I can do, because I don't know a goddamn thing about it and I don't. And as long as I'm in that position then I can say what kind of a guy I think Howard Huhnt [sic] is and why I think this is a bum wrap.
- H. Okay. Is your family alright?
- C. Doing fine.
- H. Your boy's doing well in school I understand.
- C. Doing great and he's at Princeton. He's taking a lot of heat, just like your talking about.
- H. Oh, he must have.
- C. When . . .
- H. The only counsel I can give my daughter is that people that will do that sort of thing are the kind who would pull the wings off flies and they're not really the sort of people she would really want to have as friends or even associates in any case.
- C. I said the same thing to my son, when the indictments were announced, he said everybody at Princeton said, "oh, you're old man beat the wrap" . . . Isn't that great? Doesn't that make you feel wonderful? I said the same thing to him and he's gotten so he doesn't . . . he figures that the price you pay for serving your country and you take the good with the bad, so if; you believe in what you're doing, that has to be the ultimate consolation for all of us.
- H. It does indeed. Are you going to be able to take some time off?
- C. God, I hope so, howard [sic]. I'm planning to in December some time. If I can possibly get out of here. Well, you take care of yourself and don't let it get you. Don't let it wear down that great spirit and we got the President in for four years and thank God for the country we do.
- H. Exactly.
- C. You know, when you go to sleep at night, you can put up with a lot of personal grief if you think that . . . there are always things bigger than yourself. That's really true. The moment in life when things are not bigger than yourself, then you're all washed up. Even I know that.
- H. I know. I spent a lifetime serving my country and in a sense I'm still doing it.
- C. Damn right. Alright, pal, we'll be talking to you.
- H. Okay.

Mr. JENNER. And for the purposes of identifying the exhibit, it is, as I have stated, a 4-page exhibit. Printed at the time of the first page is the figure 3888, exhibit No. 152.

The subsequent pages bear respectively and consecutively the numbers 3889, 3890 and 3891.

Proceed, Mr. Colson.

Mr. COLSON. What is the question?

Mr. JENNER. Excuse me, Mr. Chairman. Is that exhibit a part of the record now?

The CHAIRMAN. It has been so identified?

Mr. JENNER. Thank you.

Mr. COLSON. Well, this is a transcript, the exhibit is a transcript of the phone conversation and I recorded as I recorded an earlier conversation that I guess this committee calls exhibit 1 or 2.

Mr. JENNER. I believe you related to the committee this morning when Mr. Doar was examining you the nature of the recording system you had?

Mr. COLSON. Yes; I did.

Mr. JENNER. All right.

Mr. COLSON. And I thought my conversation with Hunt should be recorded. I recorded this one, however, for a second reason. I knew that Hunt would be coming to trial in the Watergate break-in case. I was also concerned that Mr. Hunt might try to use as a defense that he was ordered to do this by me. I wanted to get him on record as having acknowledged that I didn't have anything to do with the Watergate and that was one of the principal reasons that I took his call and one of the principal reasons that I recorded it. I would have recorded any conversation with Hunt during this period. I think I should also point out that when I testified to the grand jury in August of 1972 I was asked what communication I had had with Hunt and I immediately turned over the letter of August 9, and I, therefore, knew that if I were called to testify again I would want to be able to turn over this recording. In fact I did so just that when I was called to testify in April of 1973 to Mr. Silbert and Mr. Glanzer. We gave them the tape and the transcript of this telephone conversation.

Mr. JENNER. Following your recording of that conversation, or following the conversation itself would be a better way of putting it, did you have a conversation with Mr. Dean?

Mr. COLSON. Yes, sir.

Mr. JENNER. Was it immediately after the conversation with Mr. Hunt?

Mr. COLSON. Yes. I took the dictabelt off my IBM machine and gave it to my secretary to start transcribing. I called Mr. Dean and told him that I had had a conversation with Hunt, and that I had Hunt on record that I had nothing to do with Watergate and which I was very pleased about, but he had said some other things in the conversation which I thought were very disturbing and that he, Dean, ought to read the transcript as soon as I could get it typed.

Dean said, "Don't have it typed, I will come down and take the actual dictabelt and listen to it myself," which he did. He came down and took the dictabelt and returned to his office with it. I did not see it again for approximately 2 months.

Mr. JENNER. Did you seek its return in the interim period?

Mr. COLSON. After an event which I am sure will relate in more detail in early January I realized the importance of this conversation and asked Mr. Dean for the return of the dictabelt since I had never seen it in print, and I had never seen the conversation transcribed in print, and I had to make repeated demands of Mr. Dean, day after day, to get the tape back.

And I sent my secretary down to his office a couple of times to sit and wait for it. I went down once. Eventually, toward the latter part of January, Mr. Dean finally returned the dictabelt to me. I did not know until the Ervin hearings that he had made a separate copy of it himself.

Mr. JENNER. All right. Thank you, Mr. Colson. Directing your attention to the last day of the year, December 31, 1972, did you receive a letter from Mr. Hunt?

Mr. COLSON. I received another letter from Mr. Hunt. Here it is, dated December 31, 1972.

Mr. JENNER. All right now, ladies and gentlemen of the committee, you have received this in your envelope this morning, a two-page exhibit, the first page of which has a number at the top, No. 1233 and it reads "Exhibit No. 34-28, the White House, Washington," dated January 2, 1973, which, Mr. Chairman, with your permission we mark as "Colson Exhibit No. 15."

May it be so marked?

[Material unrelated to testimony of witness deleted.]

[The document referred to was marked Colson exhibit No. 15, and follows:]

[Colson Exhibit No. 15]

1233

EXHIBIT NO. 34-28
THE WHITE HOUSE
WASHINGTON

1/2/73

TO: John Dean

FROM: Charles Colson

Now what the hell do I do?

Mr. JENNER. OK. Members of the committee, the second page is numbered at the top 3892 and it reads "Exhibit No. 153," letterhead of Howard Hunt dated December 31, 1972, which, Mr. Chairman, with your permission may we identify as "Colson Exhibit No. 16."

Mr. DONOHUE [presiding]. It may be so marked.

[The document referred to was marked Colson exhibit No. 16, and follows:]

[Colson Exhibit No. 16]

3892

EXHIBIT NO. 153

HOWARD HUNT

December 31, 1972

By Hand

Hon. Charles W. Colson
Special Counsel to the President
The White House
Washington, D. C.

Dear Chuck:

The children and myself were touched by your letters, and we deeply appreciate your sympathy. I am unable to reconcile myself to Dorothy's death, much less accept it.

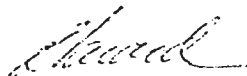
For years I was aware that I depended upon Dorothy, but only now do I realize how profound that dependence was.

Her death, of course, changes my personal equation entirely, and I believe that my paramount duty now and in the future is to my children, particularly to my 9-year-old son who was unusually dependent upon his mother, particularly since last June's tumult began.

I had understood you to say that you would be willing to see my attorney, Bill Bittman, at any time. After my wife's death I asked him to see you, but his efforts were unavailing. And though I believe I understand the delicacy of your overt position, I nevertheless feel myself even more isolated than before. My wife's death, the imminent trial, my present mental depression, and my inability to get any relief from my present situation, all contribute to a sense of abandonment by friends on whom I had in good faith relied. I can't tell you how important it is, under the circumstances, for Bill Bittman to have the opportunity to meet with you, and I trust that you will do me that favor.

There is a limit to the endurance of any man trapped in a hostile situation and mine was reached on December 8th. I do believe in God - not necessarily a Just God but in the governance of a Divine Being. His Will, however, is often enacted through human hands, and human adversaries are arraigned against me.

Sincerely, and in friendship,



Mr. JENNER. Thank you.

All right, now, Mr. Colson, directing your attention to exhibits Nos. 15 and 16, to December 31, 1972, would you please relate to the committee the circumstances under which you have received if you did receive Colson exhibit No. 16 and the events that followed?

Mr. COLSON. Well, I received, Mr. Jenner, this letter from Mr. Hunt identified as exhibit No. 16.

Mr. JENNER. And now how did you receive it, by what means? By hand, by mail?

Mr. COLSON. It says by hand. I don't know how it got to my office. My secretary gave it to me.

Mr. JENNER. But you do recall your secretary handing it to you?

Mr. COLSON. I recall receiving it. I don't know how it got to my office.

Mr. JENNER. Well, all I am seeking at the moment is how it reached you. It reached you through your secretary?

Mr. COLSON. I am sure it did.

Mr. JENNER. All right. Proceed.

Mr. COLSON. Obviously I didn't know what to do with it because I didn't want to have any communication with Hunt, and yet I was deeply distressed over the death of Hunt's wife, Dorothy, whom I had known. I had written Hunt a couple of handwritten letters during the time, once when his wife was killed and once the day of his wife's funeral. This is an acknowledgement of those handwritten notes and I did what I did, with everything else, having anything to do with the Watergate, I sent it to John Dean with a rather short covering memorandum, exhibit No. 15.

Mr. JENNER. Now, turning to a few days later, as a matter of fact 3 days, January 3, 1973, did you have a meeting, telephone call, a meeting with or telephone call with Mr. Dean on that day?

Mr. COLSON. January 3, Mr. Jenner, I received either a call or a visit from Mr. Hunt or from Mr. Dean while I was having lunch in the staff dining room in the White House. He told me that he had to see me immediately, something urgent concerning Howard Hunt and he asked me if I would come to his office immediately after I had finished my lunch. I have, as you know, executed an affidavit for the Special Prosecutor's Office.

Mr. JENNER. That affidavit dated June 3, 1973?

Mr. COLSON. Yes, sir.

Mr. JENNER. Proceed.

Mr. COLSON. Which relates the events of that 48-hour period as well as I can do it.

Mr. JENNER. Mr. Colson, I am sure the committee would like your recollection without reading the affidavit. Would you give us your recollection, please?

Mr. COLSON. Well, all right.

Dean asked me if I would come to his office immediately after lunch.

I did not. I was very busy. That had been the weekend that the President announced that peace negotiations would resume in Paris and that the bombing would be halted in North Vietnam. I had spent the entire weekend, Saturday, Sunday, and Monday working. I was kind of annoyed at being dragged in by Dean to the Watergate matter.

I was trying to get ready to leave the White House, and I had a lot of things that week the President had asked me to do.

I did not go to his office. I went back to my office.

Within a short period of time, maybe a half an hour, Dean came down to my office and he told me that Hunt was in very bad shape, was on the verge of cracking up, that I owed it to him as a friend to speak to his lawyer, Mr. Bittman, that I had apparently agreed to do so earlier, which I did when I talked to Mr. Bittman and at the time of the death of Hunt's wife.

I told Dean I didn't want to get involved. Dean said that it was very important that I see him, Bittman or Hunt, and just let them know that I was, or let Hunt know that I was still his friend.

I told him I would think about it and get back to him.

About an hour later I called him and I said, "Well I have thought about it and I would be willing to see Mr. Bittman, Mr. Hunt's attorney but I just can't do it today because I am too busy. I had things that I was doing for the President." I told Dean that I might see Bittman in the next day or two, and Dean asked me to come down to his office.

Our offices were only half a corridor apart. When I got down to his office he said that he had already told Bittman that I would see him that day, and that it was very urgent that I see him because the lawyers were all meeting "across the street." I took that to mean the offices of the Committee to Re-Elect the President. The term "across the street" generally meant that.

I told him then under those circumstances I wasn't sure I wanted to do it at all. Dean used another argument which was that Bittman was filing, on Hunt's behalf, a motion to suppress evidence in the Government's case against Hunt.

Mr. JENNER. Can you identify that evidence?

Mr. COLSON. Well, the argument that Mr. Bittman was apparently prepared to make was that the Government had seized Hunt's safe without a warrant or without any proper authority to do so.

Mr. JENNER. Seized the contents?

Mr. COLSON. Contents of the safe.

Mr. JENNER. All right.

Mr. COLSON. And the Government's defense would be, of course, that Hunt had abandoned the safe because he went off the payroll in March, and Dean said you at least owe it to Bittman to explain to him the circumstances under which Hunt left the White House, because obviously he did abandon the safe and obviously the Government was not making an unreasonable search or was not being unreasonable in seizing that evidence.

Mr. JENNER. Did he say anything about the possibility of your being a witness?

Mr. COLSON. Yes, he said that. He said, you know, furthermore if there is a hearing on a motion to suppress you will have to go in and testify against your friend, Hunt, and he will consider that, you know, hostile on your part and antagonistic.

I still wasn't buying it I guess because Dean, I said well, let's talk to Ehrlichman about it. I think Dean is the one who suggested it and both of us called Ehrlichman on the telephone.

Dean——

Mr. JENNER. He was in his office in the White House?

Mr. COLSON. We are now in Dean's office.

Mr. JENNER. I mean Mr. Ehrlichman, where was he?

Mr. COLSON. I think he was in his office. I recall him in his office.

Mr. JENNER. All right.

Mr. COLSON. Dean explained that I was reluctant to see Bittman, that I had been doing other things, that I didn't want to get involved, and Mr. Ehrlichman said that's perfectly all right for me to do it. He said he saw no reason why I shouldn't, that I was the only one that could talk to Bittman, that I owed it to Hunt, a matter of personal friendship. He did say, or we said—I don't know who raised it—that Bittman might talk about the prospects for clemency or parole or some sort of relief for Hunt and we agreed that if he did I should hear Bittman out, but give him no assurances.

It was now mid or late afternoon. This made it clear to me why Bittman had been calling my office all day. I had been unwilling to take the call.

Mr. JENNER. Before you go to that, was anything said by Mr. Ehrlichman with respect to whether the proposed meeting by you with Mr. Bittman was important?

Mr. COLSON. I got the impression that Ehrlichman thought it was important that I have the meeting and that I reassure Hunt of my friendship for him.

Mr. JENNER. Did he say that?

Mr. COLSON. I think he said—I said—he said you owe it to Hunt to be willing to talk to his lawyer.

Mr. JENNER. All right.

Mr. COLSON. Words to that effect, certainly. It was now the middle of the afternoon. I went back to my office and called Bittman and told him——

Mr. JENNER. Excuse me, Mr. Colson. I am sorry to interrupt you.

I should have been more alert. Now, was there anything said about, or do you have any impression that there was a desire on the part of Mr. Ehrlichman or Mr. Dean that Mr. Hunt be kept happy?

Mr. COLSON. I think that was the general thrust, and that was the impression I got.

Mr. JENNER. And that's what you told me on Saturday?

Mr. COLSON. Right.

Mr. JENNER. All right. Go ahead.

Mr. COLSON. I went back and arranged—called Mr. Bittman and told him to come over. I had my secretary go meet him at the door of the Executive Office Building so there wouldn't be a public record of his coming in because I found that every record ended up the next day in the Washington Post.

Mr. JENNER. Would you explain that method to the committee? If you desired that the record not be made of an entry of someone you would do what?

Mr. COLSON. Simply have them come to the front door of or one of the gates of the White House or the Executive Office Building and have them met there and escorted in which case there would not be a record kept by Secret Service.

Mr. JENNER. Now, met by whom, Mr. Colson?

Mr. COLSON. Well, generally by anyone from the White House staff who had a White House pass.

In this case my secretary.

Mr. JENNER. All right. Proceed.

Mr. COLSON. Mr. Bittman came to see me, and I began the conversation by saying to him that I want you to know first of all that I have not been involved in the Watergate. I don't know anything about it. I have tried to stay out of it completely. I don't want to get involved. And I will be happy to listen to you and to discuss Hunt's personal problems and to let you know how I feel about Hunt, but I do not want to discuss the merits of the case and if those ground rules aren't acceptable to you then we won't have this conversation.

Bittman said he would agree to that, that Hunt had told him that I didn't have any advance knowledge of the break-in, that I had nothing to do with the Watergate.

Most of the meeting was devoted to Mr. Bittman telling me of Hunt's mental state, the fact that he was in bad health, the fact that he, Bittman, had tried to get him severed out of the trial, that his private doctor said he couldn't stand trial, that the Government doctors said he could, that the prosecutor was taking a very hard position and would not agree to accept a plea of guilty to one, two or three counts but insisted upon all, that Sirica was the kind of judge who might impose a maximum sentence on all of the counts. He said that Hunt had been despondent ever since his wife's death, he blamed himself for it. He said that one of the children had threatened or attempted suicide. He said he felt Hunt was terribly mistreated, the FBI had taken stuff out of Hunt's safe that was very personal and shown it to Mrs. Hunt, things that Mr. Hunt apparently had not wanted her to see and that caused a breach in their personal relationship. And he said that he was convinced that Hunt couldn't stand trial.

I remember I said to him a couple of times that your job, Mr. Bittman, is to do everything you can to defend your client. Don't you have a good defense that you can use in the trial, and he said no, I don't. But he said not only that Hunt can't even stand, he can't even survive through a trial. He leaned very much on his wife and Bittman said he had become very friendly with him personally, they had spent hours together at each other's homes, they lived near one another, and he felt that Hunt was on the verge of cracking up.

He then went on to say that he thought that Hunt could survive some reasonable term of imprisonment, perhaps a year, if he could look forward to being out of jail and reunited with his children in some time and then maybe he could stand it but otherwise he thought he would just go off and kill himself.

Bittman explained that he was concerned that he couldn't get anywhere with Silbert, whom he described as a zealot, and was worried about Sirica, whom he described as a hanging judge. I merely said to Bittman at the conclusion that he should do whatever he needed to do as a counsel to defend his own client and that there wasn't anything that I could say to him other than I would do anything I could as a friend, personally, to help Mr. Hunt, and that I would do anything that I could in my time anywhere to urge consideration for him, but

it would be purely as a personal friend, and I could make no other representations because they might be counterproductive.

We did also discuss the motion to suppress and I explained to Bittman why that would be in my view unsuccessful because I thought he had abandoned the safe. It was also during that meeting that Bittman told me that he understood that prior to the Watergate break-in John Dean had been present at a meeting or meetings in the Attorney General's office at which plans for electronic eavesdropping had been discussed. I didn't ask Bittman the source of the information, but I was stunned by it because it was the first indication I have ever had that anybody in the White House had anything to do with the Watergate.

Mr. JENNER. When——

Mr. COLSON. At all.

Mr. JENNER. When he used the title of Attorney General, to whom was he referring?

Mr. COLSON. I am sure John Mitchell. It was John Mitchell.

Mr. JENNER. Was Mr. Liddy or the Liddy plan mentioned in the course of that meeting with Mr. Bittman?

Mr. COLSON. I don't think it was described that way. I think he said there had been a meeting to discuss electronic eavesdropping at which Dean had been present.

Mr. JENNER. All right now, was anything said in the course of that meeting about possible mitigation of Mr. Hunt's sentence in the event it was more severe than 1 year?

Mr. COLSON. I am not sure of the words we used, but I said I would do anything I could to go to bat for him and that was in the context of if he was to get a sentence, a severe sentence.

Mr. JENNER. Mr. Colson, directing your attention to paragraph 8 of your affidavit, and, Mr. Chairman, the committee does not have this affidavit.

But, I wish to identify it and we will duplicate it and furnish the committee, members of the committee, each with a copy. And for purposes of identification, I have identified the following document as Colson Exhibit No. 17, which reads at the top "District of Columbia) ss:

"Charles W. Colson, being duly sworn, deposes and says:"

[The document referred to was marked Colson exhibit No. 17, and follows:]

[Colson Exhibit No. 17]

District of Columbia) ss:

CHARLES W. COLSON, being duly sworn, deposes and says:

1. On January 3, 1973, while I was having lunch in the staff mess at the White House, I received a telephone call or visit from John Dean. My best recollection is that Dean came into the mess to see me but I am not absolutely certain of this. In any event, he told me either in person or by telephone that he had to see me right away on an urgent matter concerning Howard Hunt. He asked if I would come to his office as soon as I had finished my lunch. Instead, at the conclusion of my lunch I returned to my own office. I was reluctant to speak to Dean about Hunt since I was trying to avoid getting involved in any Watergate matters. This desire on my part was intensified by the fact that I was preparing to leave the White House staff in a matter of weeks. In addition, I had been given some important assignments by the President relating to final negotiations leading to settlement of the Vietnam conflict, had spent most of New Year's weekend at the White House working on these matters, and was still much involved in them.

2. Within a half hour to an hour after I returned to my office, Dean arrived, told me that Hunt was in very bad shape, was on the verge of cracking up and that I ought to speak to him or his lawyer, Mr. Bittman. Dean said that I owed it to Hunt to reassure him of my continued friendship. I

explained to Dean that I did not want to get involved but Dean said it was very important, that Hunt trusted me, that I was the only one who could talk to him, or words to that effect. I received the clear impression from what Dean said that Dean wanted me to do whatever I could to keep Hunt happy. I told Dean that I would think about it and get back to him.

3. An hour or so later I spoke to Dean, I believe by telephone, and told him that I would be willing to see Mr. Bittman, Hunt's attorney in a day or so, but that I could not do that day. In agreeing to see Bittman at all, I was motivated more by my feelings for Hunt's plight (and a feeling that by bringing him to the White House I was in some sense responsible for all that had befallen him) than by Dean's request. When I told Dean that I would see Bittman in a day or so, Dean asked me to come to his office. When I got to his office he explained that I had to see Bittman that day and that he had told Bittman that I would see him that day. Parenthetically, this explained to me why Bittman had been periodically calling my office during the course of the day. I was very annoyed that Dean had told Bittman I would see him even before I had said that I would. Dean explained that all the lawyers were then meeting "across the street", which I assumed meant the offices of the Committee for the Reelection of the President, and I became more resistant to the idea of seeing Bittman under such circumstances. Mr. Dean returned to the urgency of the situation, and stated that Mr. Bittman intended to argue a motion to suppress the government's evidence from Hunt's safe; that I would undoubtedly be called as a government witness with regard to the time and

circumstances of the termination of Hunt's employment; and that my testimony might be considered by Hunt as antagonistic and hence, a repudiation of our friendship.

4. At this point either Dean said that there was no problem in my speaking to Hunt and that Ehrlichman wanted me to do it or I said that I was not going to see Bittman unless Ehrlichman approved. In any event, Dean then called Ehrlichman and I got on the extension.* Dean began by explaining to Ehrlichman that I was reluctant to see Bittman. I said that I was working on some things for the President that were important. Ehrlichman said this was also important and that it was perfectly proper and that I should do it. He said that I was the only one who could talk to Bittman. Ehrlichman said that I owed it to Hunt and that it was important that I assure him of my friendship. There was mention of the possibility that Bittman might talk to me about the prospects for clemency or parole. We agreed that with respect to this and in any other respect, I should hear Bittman out but would give no assurances. From my conversations with Dean and Ehrlichman, I received the distinct impression that what they wanted me to do was to keep Hunt happy.

5. It was now mid to late afternoon. I called Bittman and said that he could come over. I asked my secretary to meet him at the door and escort him to my office. I made this arrangement because I did not want to have a public record of Mr. Bittman's coming to the White House to see me, a record which I was concerned might find its way into the newspapers. I began

* In the draft of my opening statement to the Ervin Committee I said that Mr. Dean and I went to Mr. Ehrlichman's office. However, my best present recollection is that the discussion which follows took place on the telephone and not at Ehrlichman's office.

the discussion with Mr. Bittman by telling him that I knew nothing about Watergate, had tried to stay out of the matter entirely, would not discuss the merits of the case with him but would discuss Hunt's personal problems. Bittman said that Hunt had told him that I did not have any advance knowledge of the break-in. Most of the meeting was devoted to Bittman's telling me of Hunt's plight, his state of mind and of Bittman's concern for the position that the prosecutor was taking and the sentence that Judge Sirica might impose. He told me that Hunt was in a state of total despondency over his wife's death and his children's problems. He mentioned that one of the children had threatened or attempted suicide. He said that Hunt felt that he had been terribly mistreated even to the point of the FBI having shown his wife personal things in Hunt's safe which had been detrimental to their relationship. Bittman told me that Hunt felt responsible for his wife's death. He said that he was convinced that Hunt was not up to standing trial, that he had leaned on his wife, Dorothy, and that he was cracking up. He said that he thought that Hunt might be able to survive the prospect of some reasonable term of imprisonment, perhaps a year. If he could look forward to being out of jail and reunited with his children in some reasonable time perhaps he could stand it, but otherwise he just as likely might kill himself. Bittman explained that his principal fears related to the fact that Hunt had been charged with, I believe, eight counts and that could result in a very long sentence. Bittman said that he had been trying to negotiate with Mr. Silbert to reduce the number of counts to which Hunt would plead but was getting nowhere. He characterized Silbert as a "zealot" and said that the Department of Justice had been impossible to deal with, that even though Bittman had obtained independent medical exams that indicated

Hunt could not stand trial, the Justice Department doctors had determined that he could. He further said he had had no success in obtaining a severance or any consideration of any kind from the Department of Justice. When I said that I could not imagine that given Hunt's tragedy and his personal circumstances, the Judge would impose a significant jail sentence. Bittman said that Sirica was a "hanging judge" and could mete out a very harsh sentence. At several points I told Bittman that he should do whatever would serve his client's interest, that I hoped he would do anything and everything to defend his client. I asked whether there wasn't some kind of defense that Hunt could offer, but Bittman indicated that there really wasn't any and that Hunt wasn't up to a trial.

6. We also talked about the motion to suppress and I gave him the factual details of why Hunt could not be considered to have remained on the White House payroll.

7. Sometime during the course of this meeting, Bittman told me that he understood that prior to the Watergate break-in, Dean had attended a meeting or some meetings at the Attorney General's office, at which plans for electronic eavesdropping had been discussed. I was very shaken by the information, but I did not ask for the basis of Bittman's understanding nor did Bittman offer any elaboration.

8. I told Bittman that I would soon be leaving the White House but that I wanted Hunt to know that as a friend of his I was personally committed to doing everything I could any time, any where, to urge that his sentence be mitigated. I said

that I could not make any representation beyond that because if I did, I would be hurting him as well as myself. I gave no specific indication as to what I would do, but I did let Bittman know that I considered myself a friend of Hunt's, was very concerned with his welfare and the welfare of his family, would help personally in any way I could and I told him that he could feel free to contact me regarding Hunt.

9. I then telephoned Dean to tell him that I had seen Bittman. Dean came to my office and the two of us went to Ehrlichman's office. I told Dean and Ehrlichman everything that Bittman had told me and that which I had said to Bittman, omitting only the statement that Bittman had made to me concerning Dean being present at a meeting or meetings at the Attorney General's office. I told them that Bittman had seemed happy with what I had said to him, because he had not pressed me further when I said I would do anything I could as a friend but could make no representations, to which Ehrlichman several times said "good" or "that's good". At the end of the recitation, I said that while I was leaving the White House soon and knew how short memories were around there, I had given my word to Bittman that I would do everything I could to help Hunt if he should receive a long sentence. I said that if it proved necessary I intended to go to bat for Hunt with the President and that I wanted them and the President to know this. I asked Ehrlichman whether he would tell this to the President or whether I should. Ehrlichman said he would handle it and that I need not.

10. The next day I got a call from Bittman and he asked if he could come over to see me again. I said that would be fine and he came to my office immediately. He told me that he had

decided to withdraw the motion to suppress. He reiterated much of what he had said the day before about Hunt's personal problems, his state of mind and concern over the possible duration of his sentence and the effect of any prolonged separation from his children. I, in turn, repeated the personal commitment to help Hunt as a friend that I had given Bittman the night before. In addition, I may well have told Bittman that I had made "people" aware that, if it were necessary, I was going to come back to the White House to speak for Hunt. Indeed, since I wanted to do all I could to comfort Hunt, it is most probable that I did say this. I do not know how Bittman evaluated my position and influence at the White House, but despite my insistence that I could do no more than try to help Hunt as a friend, Bittman might have inferred that if Hunt received an unreasonably long sentence, my willingness to go to bat for Hunt would result in Hunt's sentence being reduced by executive action of some sort. In any event, Bittman thanked me and said that Hunt was very appreciative of my help, interest and concern.

ii. In late January, 1973, I believe after the inauguration, I was speaking to the President about some other subject when the Watergate came up. I was particularly bitter that Mitchell, who I had thought was behind it all, was coining money in his New York law practice while Hunt faced the possibility of a jail sentence. I told the President about how much Hunt had depended on his wife and the serious problems he was having with his children. I said that he was a good soldier and a real patriot and started to say that after I left I might want some day to come talk to him about Hunt, when he cut me off in mid-sentence and said that he

just couldn't see how, in the light of Hunt's wife's death and the plight of their four children, any judge could impose a long sentence. He told me that I should not worry about it.

12. Sometime thereafter I had a conversation with John Dean in which I told Dean I had informed the President about my concern for Hunt's plight and my desire to do what I could to help him because I did not trust Mr. Haldeman or Mr. Ehrlichman to bring this to the President's attention on their own initiative.


Charles W. Colson

Subscribed and sworn to
before me this 3rd day of
June, 1974.

Dorothy E. Baker
Notary Public

My Commission Expires November 30, 1977

Mr. DONOHUE. I think before we go into this, Mr. Jenner, it might be a good point to declare a recess of 10 minutes.

Mr. JENNER. Thank you very much, Mr. Chairman. Perhaps we can duplicate it in the interim.

[Short recess.]

The CHAIRMAN. The committee will come to order.

Mr. Jenner.

Mr. JENNER. Thank you, Mr. Chairman.

The affidavit to which I referred now identified as Colson Exhibit No. 17 consists of 8 pages and 12 paragraphs consecutively numbered from 1 through 12. And may that be made a part of the record as Colson Exhibit No. 17.

The CHAIRMAN. It will be so identified.

Mr. JENNER. I direct your attention to paragraph 8 of that affidavit, Mr. Colson.

Mr. COLSON. Yes.

Mr. JENNER. By the way, that affidavit was executed by you on the date it bears?

Mr. COLSON. June 3.

Mr. JENNER. June 3, 1974, and the signature above the typed name, Charles W. Colson, is your signature?

Mr. COLSON. Yes, sir.

Mr. JENNER. And that affidavit recites, does it not, in paragraph 8:

I told Bittman that I would soon be leaving the White House but that I wanted Hunt to know that as a friend of his I was personally committed to doing everything I could anytime, anywhere, to urge that his sentence be mitigated.

Mr. COLSON. Yes, sir.

Mr. JENNER. And you did tell Mr. Bittman that in the course of the conversation you have just related?

Mr. COLSON. Words to that effect or that was the thrust of what I was saying to him. I immediately wrote a letter, after Hunt was found guilty, I wrote a letter to the probation officer as a part of the presentencing report.

Mr. JENNER. Well, Mr. Colson, my question is whether that paragraph, contained in that paragraph of the affidavit, whether you said that to Mr. Bittman as you swore under oath in this affidavit?

Mr. COLSON. That was the thrust of what I said; yes sir.

Mr. JENNER. All right now, have you given us the substance of that meeting with Mr. Bittman?

Mr. COLSON. Pardon me, sir?

Mr. JENNER. You have told us all you can recall now about your meeting with Mr. Bittman?

Mr. COLSON. Yes.

Mr. JENNER. What occurred next? Did you have a meeting with anybody?

Mr. COLSON. After the meeting with Bittman, Dean and I went to John Ehrlichman's office and I told Dean and Ehrlichman everything that Bittman had said to me and everything I had said to Bittman.

I omitted only the statement about Mr. Dean having been present at that meeting or a meeting at John Mitchell's office. I further said that Bittman seemed happy with what I said, he had not pressed me any further when I said I would do anything as a friend but could make no representations.

Ehrlichman responded good, good, good. And at the end of that conversation when I was reporting this to Ehrlichman and Dean I did say that I knew how short memories were around the White House and that I had given my personal assurance, my personal word that I would do everything I could to help Hunt if he should receive a long sentence. And I said if it proved necessary I wanted to go to bat for Hunt with the President and that I wanted those two fellows and the President to know it and I said to Ehrlichman, "Will you tell this to the President or do you want me to?"

And Ehrlichman said no, he would handle it, that I need not talk about it with the President.

Mr. JENNER. Now, following that meeting did you have a meeting with Mr. Bittman?

Mr. COLSON. He came back the next day on the fourth.

Mr. JENNER. The 4th of January 1973?

Mr. COLSON. Correct.

Mr. JENNER. All right.

Mr. COLSON. He called that afternoon and talked to my secretary and he said I am sorry, tell Mr. Colson that I need to see him again. And I told him fine, he could come back, and he reiterated a lot of things—

Mr. JENNER. He did return to your office?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right. Tell us what the conversation was. I assume only you and Mr. Bittman were present?

Mr. COLSON. That's correct.

Mr. JENNER. All right.

Mr. COLSON. He restated a number of the things that he had said the day before about Hunt's personal problems, his state of mind, his concern over the length of his sentence, the effect on his children of being separated from them for a long time. I gave exactly the same commitment that I had given the night before, that I would help Hunt as a friend, but I said I couldn't say any more. I might have, as the affidavit indicates, gone one step further and that I had made people at the White House aware of the fact that I wanted to come back and speak on Hunt's behalf, even though I was soon going to be a private citizen, and I very possibly said that to him.

I also have a recollection—

Mr. JENNER. You swore in your affidavit that you did say it, did you not?

Mr. COLSON. No; I don't think I did.

Mr. JENNER. May I read to you, Mr. Colson, from paragraph 10 on page 7 of your affidavit as follows:

In addition, I may well have told Bittman that I had made "people" aware that, if it were necessary, I was going to come back to the White House to speak to Hunt. Indeed, since I wanted to do all I could to comfort Hunt, it is most probable that I did say this.

Mr. COLSON. The "probable" and "may have said" are the operative words.

Mr. JENNER. And did you say further in your affidavit—

I do not know how Bittman evaluated my position and influence at the White House, but despite my insistence that I could do no more than try to help Hunt

as a friend, Bittman might have inferred that if Hunt received an unreasonably long sentence, my willingness to go to bat for Hunt would result in Hunt's sentence being reduced by executive action of some sort. In any event, Bittman thanked me and said that Hunt was very appreciative of my help, interest and concern.

That's contained in your affidavit?

Mr. COLSON. I think you read it accurately.

Mr. JENNER. Thank you. Now, following the January 5 meeting in your office with Mr. Bittman, did you recover—I think maybe you have already testified to this—you recovered the dictabelt from Mr. Dean?

Mr. COLSON. Well, you know, this was the first time, Mr. Jenner, that I had had the slightest indication that anybody in the White House had been involved in anything involving Watergate and I was shaken by what Bittman said, albeit hearsay, that Dean had been present at these meetings and I decided I better get my transcript back fast, the tape rather. I was concerned because I wanted to read it and see what it said. I was also afraid that since it contained material that I regarded as exculpatory of me, that maybe if Mr. Dean was involved in this he might lose that transcript. And so I persisted for many, many days. It went on for 2 or 3 weeks, 3 weeks I would say before I got it, before I got the actual tape back and I had the conversation recorded or transcribed and read really carefully for the first time what it was that Hunt had said to me in mid-November of 1972.

Mr. JENNER. All right now, do you recall Saturday when I interviewed you your remarks respecting your being convinced that, I think your expression was higher up than the CRP were involved in Watergate?

Mr. COLSON. I had always been suspicious of it, Mr. Jenner but I didn't really have much to go on at least as to who they might be, other than the fact that I knew that apparently Mr. Magruder had had a close call with the grand jury.

Mr. JENNER. Perhaps I should have framed my question that after reading the transcript, the tape of which you have recovered from Mr. Dean, that you were convinced that higher ups in the CRP were involved in the Watergate?

Mr. COLSON. That's correct.

Mr. JENNER. All right. Did you also say to me that you, after reading that, were likewise convinced that something was going on inside the White House?

Mr. COLSON. Well, I wasn't—no, I wouldn't say that. I was worried that something might go on inside the White House since Dean was the man in charge of the handling of the Watergate for the White House, if he had had some prior involvement on his own, that concerned me.

Mr. JENNER. All right now, I direct your attention to late January 1973. Do you recall you had a conversation with Mr. Haldeman?

Mr. COLSON. After I read it.

Mr. JENNER. Do you recall—

Mr. COLSON. Yes, sir.

Mr. JENNER. All right, tell us about it.

Mr. COLSON. After I read the transcript of the phone conversation with Hunt, and remembering what Bittman had told me, that Dean had been present at these meetings, I decided that I should go to Bob Haldeman and tell him exactly what my concerns were.

Mr. JENNER. All right now, you went to Bob Haldeman, correct?

Mr. COLSON. Correct.

Mr. JENNER. And where was that, in his office?

Mr. COLSON. In his office.

Mr. JENNER. And who was present?

Mr. COLSON. Just Haldeman and myself.

Mr. JENNER. And what did you tell Mr. Haldeman, and what did he say?

Mr. COLSON. I said that I was very concerned that the White House could get involved in this, that the matter could become a lot more serious, the Watergate matter. I first told him that—I am not sure of the sequence, two things. I told him two things. I said that I had had a report, I had had a report that John Dean had been present at a meeting or meetings in John Mitchell's office prior to the Watergate in which eavesdropping and electronic eavesdropping was discussed.

Mr. DONOHUE. Mr. Chairman, may we have the dates of that meeting?

Mr. COLSON. I don't have the date, Congressman. I can only say that I think it was in late January, but my—I have no way of pinning the date down.

Mr. JENNER. That's late January 1973?

Mr. COLSON. Correct. I told Haldeman that I was very concerned about Dean having been at these meetings and Bob said well, he knew all about that. Haldeman said—

Mr. JENNER. He, Bob, knew all about that?

Mr. COLSON. Right. He said Dean had told him about it, that Dean's role was entirely proper, that Dean had been there but he stopped the discussion the minute they got into matters that he thought were illegal and improper to be discussed in the Attorney General's office. And he said what Dean did was absolutely correct.

Mr. JENNER. To what meeting was Mr. Haldeman referring? Would you please identify that more definitely for the committee?

Mr. COLSON. Well, he had to be referring to the same meeting I was telling him about, that I had had a report on from Mr. Bittman.

Mr. JENNER. And what meeting was that?

Mr. COLSON. John Dean present in Mitchell's office discussing electronic eavesdropping prior to the Watergate break-in.

Mr. JENNER. All right. Proceed.

Mr. COLSON. I then raised a second question with Bob. I said well, you know the other thing that troubles me, and I had now reference in my own mind although I didn't mention it, to the phone conversation with Hunt, I said you know they are raising funds for the defendants and paying funds to the defendants in this case and this could get smelly, this could be interpreted as hush money.

Haldeman's answer to that was there is no reason why friends can't go out and raise money to help people pay for their legal defenses. It happens all the time. Defense funds are common and after all, there is a defense fund for Angela Davis, and why can't they have a defense

fund? Haldeman dismissed both of the points that I had raised very summarily.

Mr. JENNER. And have you given us the substance of that conversation?

Mr. COLSON. Yes, I have.

Mr. JENNER. Did you have a meeting with the President regarding Watergate during this late January or middle January period?

Mr. COLSON. Well, I had several discussions with the President during January and early February regarding the Watergate.

Most of them, Mr. Jenner, were conversations that again discussed the political issues, you know, somebody has called for congressional hearings, and how do we answer that and what will happen to the issue. There weren't that many, but they were what I would characterize as gossip conversations where I was just reporting to him something I had heard or read or a good column that had been written, or a bad column that had been written, or a bad TV report. In other words, I was telling him something I had heard. There were two conversations with the President of any substance.

Mr. JENNER. All right, if you can separate them, as best you can, tell us about the first one.

Mr. COLSON. Well, I can't necessarily tell you what came first, and what came second. But, there were really four elements I know in these conversations. One took place immediately after I had seen Mr. Haldeman because I was really dissatisfied with Haldeman's reaction to what I had reported. And I said that whoever ordered the Watergate has ill-served you, I said something to the effect, I think I said has either ill-served you or has done the greatest disservice to the Presidency and that was one element.

I think in that same conversation I may have talked about Mitchell in my view must have been responsible, must have known about it.

I was somewhat resentful of the fact that Mitchell was sitting up in New York coining money in his law practice while my friend Hunt was going to go to jail, or at least it appeared he would. And I know on one occasion at least I said to the President I just think Mitchell had to know about this.

There was a third element and I think this took place in the first conversation with the President in which I said what worries me most about Watergate now is that it could spread into the White House. And the President said—I said it could spread into the White House, into the White House staff, and the President said who, Bob and John?

And I said, since I didn't know, I just shrugged my shoulders.

I also asked him not to tell Bob and John that I had raised that with him or said that to him. I know that one followed, I am quite certain that followed my first conversation with Haldeman because I was concerned that Haldeman's reaction either showed that he didn't have any understanding of the potential dangers or knew all about them and wasn't going to do anything about it and that's the reason that I said that to the President.

The fourth element of my conversation with the President in January, late January, perhaps early February, was one occasion when I was feeling very depressed about Howard Hunt, and I know probably most of the members of this committee who don't know me very well think of me as the hardhearted White House hatchet man.

But, I was almost choked up when I was talking about Hunt. I had known his wife and his kids and it just in my mind was a terrible human tragedy.

Here is a guy, who, you know, was a super dedicated super patriot, would do anything he thought was the best for his country, and he ends up with his wife, whom he depended upon, killed and his four kids in pretty bad shape, and he's headed for jail and ruined.

And I was telling the President how badly I feel and I was telling him about Dorothy Hunt. Something precipitated this.

Whether it was a column about Hunt, or something I had read or heard about, we got on the subject of Hunt in any event.

And the President I guess could tell that I was feeling very badly, and I started to say some day I may want to come talk to you, but I never finished the sentence. He didn't let me.

I was going to say some day I may want to come talk to you about Hunt. Half way through that sentence the President interrupted and he said, he said oh, I just can't believe, Chuck, in the circumstances you have just described, with his wife in that shape and his kids, he said, I just can't believe that he will go to jail.

He said I just can't believe any judge would do that. I just am sure he won't, and don't you worry about it, and relax and don't let it get you down. That's the conversation that I think has caused all of the confusion in this committee and elsewhere about whether indeed, commutation, executive clemency or anything else was ever committed by the President.

The conversation I have just described, in my opinion, is a far cry from saying you just tell your friend Hunt to stay quiet and I will commute his sentence or let him out of jail. That was never done.

But, the most the President said in my recollection is that under those circumstances, I just can't imagine Hunt going to jail. I just can't imagine him, you know, I just can't imagine that happening.

And that conversation, by the way, I never reported to anyone else, Mr. Bittman, Mr. Hunt or anyone.

Mr. JENNER. And you have summarized this conversation in your affidavit which is Colson exhibit No. 17? ¹ Correct?

Mr. COLSON. Part of it—yes, right.

Mr. JENNER. Paragraph 11?

Mr. COLSON. Paragraph 11. Yes, sir.

Mr. JENNER. Now, do you recall having another meeting with Mr. Haldeman?

Mr. COLSON. Yes, there was another meetings at which—

Mr. JENNER. Try and fix that as best you can. It was a meeting with Mr. Haldeman following or occurring subsequent to the one you had already testified about, is that correct?

Mr. COLSON. Yes. My feeling, Mr. Jenner, and I can't pin this down, was that it was just before I was going away to Europe. The President had asked me to make a trip which I did, leaving February 14.

I think it was one of the last times I saw Bob before I went on that trip and basically what I said to him was very simply I said I think—

Mr. JENNER. Excuse me. This meeting was where?

¹ See p. 305.

Mr. COLSON. This meeting was in Bob Haldeman's office.

Mr. JENNER. And who was present?

Mr. COLSON. Haldeman and myself, no one else.

Mr. JENNER. All right. Please relate the conversation.

Mr. COLSON. I think basically—

Mr. JENNER. Excuse me. Did you arrange it or did Mr. Haldeman?

Mr. COLSON. Well, it wasn't that. As I recall I was standing up at the end of the meeting. Bob and I had probably been talking about half a dozen other things and I think I said, you know, I am going away, Bob, but I just wish I could, I would just like to give you a piece of advice. I just think—

Mr. SEIBERLING. A point of clarification, Mr. Chairman. Could we get a date, approximate date for this?

Mr. COLSON. Well, I left, Mr. Seiberling, for Europe on February 14, so I think it would be perhaps in a week or 10 days preceding that.

Mr. JENNER. That's 1973?

Mr. COLSON. 1973.

Mr. JENNER. All right.

Mr. COLSON. What I said was I'm leaving and I just would like to give you a piece of advice. I think that this Watergate matter is not going to go away and it seems to me that John Mitchell must have been responsible for this. And if he was, we damn well better bring him in and make him take the responsibility. The reaction of Haldeman was well, if we, if Mitchell was responsible for this, a lot of people have been put through a lot of grief for John Mitchell and then he went on to say that don't be so, you know, easy about that, Chuck in the way you throw that around because if John Mitchell goes down he will take you with him and I said I didn't have the slightest worry about that, and I had no concern. I hadn't been involved in the Watergate and it didn't worry me. The important thing was to keep the damn thing out of the White House. And when he brushed Mitchell aside I said but if, certainly if John Mitchell wasn't, then I know damn well Jeb Magruder had to be and Haldeman said the same thing.

He said you know what Magruder thinks of you. He said if you are really saying that Magruder was responsible and we should make him own up to it, and he's going to take you down with him and I again said I had not been involved and I didn't care what either man said, I would let the truth come out. I thought it was time to get rid of it and as soon as possible.

Mr. JENNER. Have you given the substance and whatever detail you recall at the moment?

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, with respect to Congressman Seiberling's inquiry, I am recalling our conversation on Saturday. Is it possible that this second meeting with Haldeman occurred in between your two conversations with the President?

Mr. COLSON. Could have been. I can't really place it. I have a recollection, and it may be reliable, it may not be, that I was just getting ready to leave, so it would be sometime toward the middle of February. I know in my draft statement that I prepared for the Ervin committee it mentions January, but I can't—January or early February. I guess that's right.

Mr. JENNER. Now, directing your attention to February 14, 1973, or directing your attention more particularly to shortly before you left on your trip for Europe, did you have a meeting with President Nixon?

Mr. COLSON. I had a meeting on the morning of February 13, and again on the morning of February 14.

Mr. JENNER. All right. Tell us about the February 13 meeting.

Mr. COLSON. Well—

Mr. JENNER. Where was it and who was present in each instance?

Mr. COLSON. Both meetings were with the President in the Oval Office with just the two of us present.

Mr. JENNER. Tell us.

Mr. COLSON. I don't know which morning it came up. My counsel tells me, because he said I reported back to him afterward, that it was the morning of February 14. But, it just as easily I think could have been the morning of February 13.

In the course of the conversation the President asked me whether he thought, whether I thought he should send Pat Gray's nomination to the Senate to be confirmed as Director of the FBI. And I said to the President, if he is your choice, then you should send this nomination up. It isn't right to leave the man dangling as Acting Director of the FBI, and it's not right for the FBI if he's your pick. Go ahead and send him up. The President said that will open up the whole Watergate issue in the Congress and in the Senate on this confirmation hearing, and I said yes, but you are going to have to open it up someplace, it's going to come out anyway and be the subject of hearings you might as well let it come out in the Gray hearings. I think that led us into a discussion of Watergate. I had at this point been having rather extensive conversations with Mr. Shapiro who is to be my law partner and counsel. We had been talking about this at great length. Mr. Shapiro was concerned about the possibility of the White House getting dragged into the Watergate, and in the course of that conversation with the President, following the discussion about Pat Gray, I said to him, you know, my law partner to be, and my counsel, Dave Shapiro, is very concerned that when the sentencing comes with the original Watergate defendants, Judge Sirica will hand out heavy sentencing to all but one of the defendants, and he will try to get one of the defendants to break and tell everything. And that's going to blow up the whole Watergate issue and it will be a lot better if we now get the guy who was responsible and make him step forward and take the consequences. And I said I think, as you know, that John Mitchell is the guy. I think he's the one who must have known and I recommend and Shapiro recommends that you call him in and get him to accept the responsibility.

And the President reacted a little bit angrily and he said are you suggesting—he said I would like to get rid of Watergate as much as anybody else—but are you suggesting that John Mitchell be made a scapegoat?

He said after all, Mitchell has sworn he was not involved, just like you have, Chuck. And I am not about to take an innocent person and make him a scapegoat at which point I dropped the subject.

Mr. JENNER. Have you given us the substance of that conversation as you are best able to recall it now?

Mr. COLSON. Yes; I have.

Mr. JENNER. All right. When did you return from Europe?

Mr. COLSON. I returned on March 8.

Mr. JENNER. Excuse me. Did you ever have a conversation with the President during the course of any of these meetings in which your meetings with Mr. Bittman were referred to by you?

Mr. COLSON. I don't believe I ever referred to the fact that I had seen Mr. Bittman. I may have, but—I may have when I was talking about Hunt's plight. I guess I probably would have had to, otherwise I don't know how I would explain that I knew about Hunt's personal problems. I may have or I may not have.

Mr. JENNER. Do you have a recollection, to the extent you might have, if you did relate to the President the substance of your meeting with Mr. Bittman?

Mr. COLSON. I don't think I ever really did the substance of the meetings. I don't recall doing so.

Mr. JENNER. All right. You returned on March 8?

Mr. COLSON. Yes, sir.

Mr. JENNER. 1973?

Mr. COLSON. Correct.

Mr. JENNER. Did you meet with Mr. Dean?

Mr. COLSON. The first person I saw was Mr. Dean because while I had been in Europe, Newsweek magazine carried a full page article entitled "Whispers on Colson" which we later found out had been engineered—I was very disturbed by it when I was in Europe and I called Dean from Austria and when I got back I went to see him about it.

During the course of that meeting with Mr. Dean he said to me I hope Chuck, you will keep in touch with Howard Hunt. You are now leaving the White House and you can be talking to him. He said I would appreciate it if you would talk to him and just kind of keep him happy, and let him know you are his friend. I did not respond to that. Instead I told Mr. Shapiro about Dean's request and Mr. Shapiro instructed me in the strongest terms not to have any contact with Hunt.

Mr. JENNER. Have you told us the substance of that meeting?

Mr. COLSON. Yes.

Mr. JENNER. Or conversation?

Mr. COLSON. Well, we talked about some other things like the forthcoming statement by the President on executive privilege and Dean told me that he had been meeting with the President personally, which was a new experience for him. But, that was basically it.

Mr. JENNER. Was anything said about your possibility of your being retained as a consultant to the White House following your resignation or retirement?

Mr. COLSON. I am not sure it was that day, Mr. Jenner, but there were a couple of discussions, one with Mr. Dean, one with Mr. Dean and Mr. Haldeman about my being placed in a consultant status when I left.

Mr. JENNER. Any particular reason for that?

Mr. COLSON. Well, there were two reasons. One, I would continue thereafter to have some protection in terms of executive privilege should I be called to testify at congressional committees if I remained

a consultant. And second, as Dean explained to Haldeman one time in my presence, which may have been right at this same time, may have been March 8 or 9, or it may have been earlier, Dean said to Haldeman this is a good idea, Bob, because Chuck will have to have contact from time to time with Hunt.

Mr. JENNER. Was there any discussion about a consulting agreement or whether one had been drafted or not during either of these conversations with Mr. Dean alone or with Mr. Haldeman and Mr. Dean?

Mr. COLSON. I don't recall discussing whether one had been drafted but one was sent to me right after I left. I guess I may have signed one while I was still in the White House just before I left.

Mr. JENNER. And you did execute a written consultant agreement contract?

Mr. COLSON. Yes, I did.

Mr. JENNER. Do you have a copy of that consultant agreement, Mr. Colson?

Mr. COLSON. No. I think we gave you whatever we had, which was—I don't know what it was. There was a letter terminating, a letter terminating the consulting agreement which letter I received on July—I'm sorry, it's been given to the Special Prosecutor. It was a letter from Mr. Kehrl.

Mr. JENNER. The contract has been given to the Special Prosecutor?

Mr. COLSON. We couldn't find the actual contract that I signed. I think I signed one in the White House and left it there. I don't think I took a copy. There were some forms for reimbursement which I had and which I gave to Mr. Ben Veniste of the Special Prosecutor's office. There was also a letter. There was a letter, subsequent letter terminating the consulting arrangement. I think it was July of 1973.

Mr. JENNER. Mr. Chairman, the staff does not have either the contract or the subsequent letter to which Mr. Colson is now referring.

Directing your attention to the forepart of March, around March 13 or March 14, did you have a conversation with Mr. Bittman?

Mr. COLSON. Yes. Following—

Mr. JENNER. Fix the date, please.

Mr. COLSON. Well, I can't any better than you just did.

Mr. JENNER. Was it the 13th or the 14th as you best recall?

Mr. COLSON. I would say it must have been the 13th or 14th.

Mr. JENNER. Thank you. Did you call—was it a meeting or telephone call?

Mr. COLSON. No; I called Mr. Bittman, following the meeting with Mr. Dean, Mr. Jenner, that when Dean asked me to see Hunt I talked to Shapiro, and Shapiro said that he did not want me to see Hunt. He said I would like, I, Shapiro, would like to see Hunt and find out what I can about Mr. Hunt, what he knows about your involvement, and I think Mr. Shapiro wanted to try to get an affidavit from him that I was not involved. I was still being accused day in and day out as the mastermind behind Watergate.

And David asked me to call Mr. Bittman and arrange, if Mr. Bittman approved, for Mr. Shapiro to see Mr. Hunt. I called Bittman and asked if he would have any objection if my counsel, Mr. Shapiro, saw his client, Mr. Hunt, and he said he would have no objection.

And I believe he called back and arranged for Mr. Shapiro to meet with Mr. Hunt.

Mr. JENNER. And was that meeting held?

Mr. COLSON. Yes, sir. That meeting was held on the 16th, Friday, the 16th.

Mr. JENNER. Do you have a recollection as to when that meeting with Mr. Shapiro was arranged? Was it on the 16th or prior to the 16th?

Did I say Shapiro? Mr. Shapiro, if you have a recollection, we will take your professional representation.

Mr. SHAPIRO. It was arranged either on the 14th or the 15th. It could have been earlier but it was arranged for 2 o'clock on the 16th of March at my office.

Mr. JENNER. You have a definite recollection, Mr. Shapiro, that it was not arranged on March 16?

Mr. SHAPIRO. I do.

Mr. JENNER. Now, having established that date, Mr. Colson, were you advised that Mr. Shapiro did meet with Mr. Hunt?

Mr. COLSON. After he had met with Mr. Hunt, Mr. Shapiro told me of his meeting.

Mr. JENNER. Did he tell you on the day that he met with him?

Mr. COLSON. No. I was out of town that day. I was in New York on the 16th.

Mr. JENNER. When did you return, on the 17th?

Mr. COLSON. Yes. I think I was in the office that morning but briefly for a meeting and in and out. Mr. Shapiro and I both think that he told me on the morning of the 19th, Monday morning. He described to me the essentials of his conversation with Mr. Hunt.

Mr. JENNER. On the previous 16th?

Mr. COLSON. Yes, sir.

Mr. JENNER. Now, Mr. Shapiro made a memorandum of the meeting, did he not?

Mr. COLSON. Yes, sir.

Mr. JENNER. Mr. Chairman, may I mark as Colson exhibit No. 18—

The CHAIRMAN. How are you identifying it?

Mr. JENNER. A single page document which was given to each member of the committee this morning with the date of March 16, 1973, entitled "Memorandum for the File," signed by a person, Holly Holm, and is a signature of Holly Holm, or at least a writing to that effect in longhand above that name.

The CHAIRMAN. That will be so marked.

[The document referred to was marked Colson exhibit No. 18, and follows:]

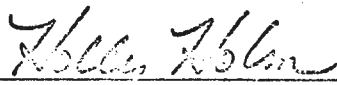
[Colson Exhibit No. 18]

March 16, 1973

MEMORANDUM FOR THE FILE

On March 16, 1973, E. Howard Hunt met David I. Shapiro in the large office at 2:05 p.m. There was no one present in the room other than the two of them.

The meeting concluded at 3:05 p.m.


Holly Holm

Mr. JENNER. And then a second document, Mr. Chairman, to which reference is made in Colson exhibit No. 18, may I mark that as Colson exhibit No. 19?

The CHAIRMAN. It will be so marked.

[The document referred to was marked Colson exhibit No. 19, and follows:]

[Colson Exhibit No. 19]

March 16, 1973

MEMORANDUM FOR THE FILE

Dictation commenced at 3:07 p.m.

I have instructed Miss Holm to make only one copy of this memo for the file and to destroy her stenographic notes.

Howard Hunt came to see me at 2:05 p.m. this day. We met for a period of one hour alone in my office. No other person was present except when I opened the door to ask Miss Holm to get Mr. Hunt a coke and me a cup of coffee.

The meeting was set up as a result of a request from me to Chuck Colson. Chuck arranged the meeting via a call to Bill Bittman. I had previously instructed Colson not to communicate with Hunt in any way.

I told Hunt that I wanted to see him in order to advise him that Chuck was concerned about his well being and the well being of his children and that he continued to have the deepest respect and affection for him.

I told him that he should not expect to hear from Colson, that I, as Colson's lawyer, had given Colson instructions not to communicate with Hunt and that I was doing so because of my concern that, otherwise, Chuck might become innocently involved in an investigation of Hunt's activities now underway or which might be contemplated in the future.

Hunt told me that Chuck had nothing to fear from him, not because of his friendship with Chuck, but because Chuck knew nothing of the Watergate affair and was not involved in it in any way. He reiterated this several times.

I advised Hunt that, since I was not his lawyer, anything he said to me was not privileged and that, were I subpoenaed to testify about our conversation, I could not refuse to do so.

Hunt told me that he had strongly recommended against the bugging incident, but that Liddy had told him that they were "on orders" from John Mitchell to do it.

He also told me that certain financial commitments had been made to him and that, if these commitments were broken, the Republicans would lose the 1974 elections and probably the 1976 one. He said that he had made self-executing arrangements to insure that these commitments were kept and shortly after he went to jail, his literary agent would put up for auction Hunt's book to be entitled "Watergate".

Hunt stated that several persons should be terribly concerned were he to testify before the Ervin Committee (where he said he presently proposes to invoke the 5th Amendment). These persons he identified as John Dean, Bud Krogh, Pat Gray, John Mitchell and one or two others whom I can't remember (I did not take notes). Hunt said he knew he was risking the possibility of an obstruction of justice charge when he convinced those who pleaded guilty to do so, but is also convinced that if the commitments made to him are kept, no one in his "operation" will "blow". In apparent contradiction to his prior statement, however, Hunt said he was concerned that McCord was the one weak link in his "operation" and that McCord could well "open up" to the detriment of those concerned.

Hunt told me that Paul ^{O'Brien} McCord importuned him last week to get off a strong memorandum to Colson urging that Colson take over ~~McCord's~~ ^{McCord's} role in funneling money to Hunt. According to Hunt, ~~McCord~~ ^{O'Brien} told him and Bittman that he could no longer be counted on to deliver on past promises of financial support.

Hunt is looking for \$60,000 to be paid to him in the next week.

NOTE.— The handwritten changes on this page are those of David Shapiro. The name is changed to Paul O'Brien.

I told Hunt I would discuss the matter with Colson, but would strongly recommend that nothing of what Hunt told me be communicated to any one else and that none of Hunt's "threats" (my term) be communicated either.

I told Hunt that my proposed recommendation to Colson was based on the fact that I did not want Chuck to become a party to a conspiracy to obstruct justice and that I would take whatever steps were necessary to insure that Chuck did not become a potential co-conspirator.

I further told Hunt that, in my view, Chuck would -- solely by reason of his friendship and affection for Hunt -- do whatever he could as a private individual to help Hunt and his children in their current difficulties.

Hunt mentioned the fact that his daughter was having severe psychological problems and that his 9 year old son was going to a clinical psychologist (but was not experiencing any current "flak" from other children in school).

I told Hunt that he should communicate my views to Bittman and that he would have to find a different way of making his point of view known to the persons whom, in Hunt's terms, should be "concerned", at which point he mentioned the fact that he had some "interesting" tapes of telephone conversations with a number of the "concerned".

Hunt made it particularly clear that he was "pissed off" at John Dean and said, without specifically mentioning Dean's name, that the Senate might be interested to know "who advised him to get out of town", etc. in connection with the Watergate.

At the conclusion of our meeting, I told Hunt that I was troubled about the possibility that those who were most directly involved in the Watergate affair, but who had not yet been officially identified as such, might attempt to turn attention from themselves by seeking to finger Colson as the "master mind". Hunt reiterated that, in that event, he would have to testify under oath that Colson not only had nothing to do with "Watergate", but in fact knew nothing about it.

Hunt told me I could reach him at the following unlisted numbers:

299-7319 and 299-7385

Mr. JENNER. Colson exhibit No. 19, delivered to the committee this morning, consists of three pages, dated March 16, 1974, entitled "Memorandum for the File" "Dictation commenced at 3:07 p.m." And the last page of which appears to bear the signature of David R. Shapiro.

Mr. Shapiro, may I have your professional statement as to whether the signature, David R. Shapiro, appearing on the fourth page is yours?

Mr. SHAPIRO. It is my signature and it is my memorandum.

Mr. JENNER. Did you dictate the memorandum?

Mr. SHAPIRO. I most certainly did.

Mr. JENNER. On what date?

Mr. SHAPIRO. On the 16th of March at 3:07 p.m. That was within about 4 minutes after I believe, after Mr. Hunt left my office.

Mr. JENNER. And would you give us your professional statement as to what is the signature that appears on Colson exhibit No. 18?

Mr. SHAPIRO. That Miss Holm's signature and——

Mr. JENNER. Who's she?

Mr. SHAPIRO. She was at that time Mr. Colson's secretary and she had just come over from the White House.

Mr. JENNER. She was Mr. Colson's secretary in your law office?

Mr. SHAPIRO. In our law office.

Mr. JENNER. And you and Mr. Colson were partners?

Mr. SHAPIRO. That's correct, as of that date.

Mr. JENNER. Ladies and gentlemen of the committee and Mr. Chairman, with your permission I would like to read Colson exhibit No. 18.

The CHAIRMAN. Please do.

Mr. SHAPIRO. Nineteen.

Mr. JENNER. Nineteen. I'm sorry. I misspoke. "Dictation commenced at 3:07 p.m."

I have instructed Miss Holm to make only one copy of this memo for the file and to destroy her stenographic notes.

[Material unrelated to testimony of witness deleted.]

Mr. JENNER [reading].

Howard Hunt came to see me at 2:05 p.m. this day. We met for a period of one hour alone in my office. No other person was present except when I opened the door to ask Miss Holm to get Mr. Hunt a coke and me a cup of coffee.

The meeting was set up as a result of a request from me to Chuck Colson. Chuck arranged the meeting via a call to Bill Bittman. I had previously instructed Colson not to communicate with Hunt in any way.

I told Hunt that I wanted to see him in order to advise him that Chuck was concerned about his well being and the well being of his children and that he continued to have the deepest respect and affection for him.

I told him that he should not expect to hear from Colson, that I, as Colson's lawyer, had given Colson instructions not to communicate with Hunt and that I was doing so because of my concern that, otherwise, Chuck might become innocently involved in an investigation of Hunt's activities now underway or which might be contemplated in the future.

Hunt told me that Chuck had nothing to fear from him, not because of his friendship with Chuck, but because Chuck knew nothing of the Watergate affair and was not involved in it in any way. He reiterated this several times.

I advised Hunt that, since I was not his lawyer, anything he said to me was not privileged and that, were I subpoenaed to testify about our conversation, I could not refuse to do so.

Hunt told me that he had strongly recommended against the bugging incident, but that Liddy had told him that they were "under orders" from John Mitchell to do it.

He also told me that certain financial commitments had been made to him and that, if these commitments were broken, the Republicans would lose the 1974 elections and probably the 1976 one. He said that he had made self-executing arrangements to insure that these commitments were kept and shortly after he went to jail, his literary agent would put up for auction Hunt's book to be entitled "Watergate".

Hunt stated that several persons should be terribly concerned were he to testify before the Ervin Committee (where he said he presently proposes to invoke the 5th Amendment). These persons he identified as John Dean, Bud Krogh, Pat Gray, John Mitchell and one or two others whom I can't remember (I did not take notes). Hunt said he knew he was risking the possibility of an obstruction of justice charge when he convinced those who pleaded guilty to do so, but is also convinced that if the commitments made to him are kept, no one in his "operation" will "blow". In apparent contradiction to his prior statement, however, Hunt said he was concerned that McCord was the one weak link in his "operation" and that McCord could well "open up" to the detriment of those concerned.

"Hunt told me that Paul"—the type is "Paul McGuire" and written above it is "O'Brien." Is that your handwriting, Mr. Shapiro?

Mr. SHAPIRO. It is.

Mr. JENNER. "Hunt told me that Paul O'Brien importuned him last week to get off a strong memorandum to Colson urging that Colson take over"—is that your handwriting, Mr. Shapiro?

Mr. SHAPIRO. Correct. In each case it is my handwriting.

Mr. JENNER. "O'Brien's role in funneling money to Hunt. According to Hunt,"

Mr. SHAPIRO. It says "O'Brien" again.

Mr. JENNER. It should be "O'Brien"? "told him and Bittman that he could no longer be counted on to deliver on past promises of financial support.

Hunt is looking for \$60,000 to be paid to him in the next week.

I told Hunt that I would discuss the matter with Colson, but would strongly recommend that nothing of what Hunt told me be communicated to anyone else and that none of Hunt's "threats" (my term) be communicated either.

I told Hunt that my proposed recommendation to Colson was based on the fact that I did not want Chuck to become a party to a conspiracy to obstruct justice and that I would take whatever steps were necessary to insure that Chuck did not become a potential co-conspirator.

I further told Hunt that, in my view, Chuck would—solely by reason of his friendship and affection for Hunt—do whatever he could as a private individual to help Hunt and his children in their current difficulties.

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I told Hunt that he should communicate my views to Bittman and that he would have to find a different way of making his point of view known to the persons whom, in Hunt's terms, should be "concerned", at which point he mentioned the fact that he had some "interesting" tapes of telephone conversations with a number of the "concerned".

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At the conclusion of our meeting, I told Hunt that I was troubled about the possibility that those who were most directly involved in the Watergate affair, but who had not yet been officially identified as such, might attempt to turn attention from themselves by seeking to finger Colson as the "master mind". Hunt reiterated that, in that event, he would have to testify under oath that Colson not only had nothing to do with "Watergate", but in fact knew nothing about it.

Hunt told me I could reach him at the following numbers:

299-7319 and 299-7385.

David R. Shapiro.

Mr. RANGEL. Mr. Chairman.

The CHAIRMAN. Mr. Rangel.

Mr. RANGEL. May I inquire from counsel as to whether Colson Exhibit No. 18, do we have a statement from counsel that he did in fact prepare this on the record?

Mr. SHAPIRO. Congressman, I did state that this is my memorandum and I did prepare it and it does represent my then contemporaneous recollection of my conversation with Mr. Hunt on the 16th of March 1973 between the hours of approximately 2 and 3 p.m. on that day.

Mr. RANGEL. Thank you very much.

Mr. JENNER. And did you dictate the memo shortly after Mr. Hunt left your office?

Mr. SHAPIRO. I said within a period of approximately 2 to 4 minutes after he left.

Mr. JENNER. All right.

Now, turning to March 19, 1973, Mr. Colson, did you have another meeting with Mr. Shapiro?

Mr. COLSON. Yes; in the morning, Mr. Shapiro and I discussed the conversation that he had had with Mr. Hunt. He told me the general thrust of what Hunt had said to him and what he had said to Hunt.

He did say to me that I should have no contact with Hunt and I should certainly not pass on to anybody at the White House about the substance of what Hunt had said to him, because if I did, I might unwittingly become a party to an obstruction of justice by even communicating Mr. Hunt's message.

Mr. Shapiro and I have some different recollections. He thinks he told me that I should tell the President, but no one else. My recollection is that he told me that I should not tell anyone. Mr. Shapiro's recollection is usually more accurate than mine.

If he said that, I rejected it, because I had been put down by the President on February 13th or 14th when I tried to pass it or, when I was afraid the President thought I was trying to pass off my own responsibility by naming Mitchell.

The President knew that Mitchell and I did not get along. Frankly, I realized after the conversation on February 13 or 14 that the President might well have interpreted my remarks about Mitchell as being somewhat colored by my own feelings about Mitchell. The President was well aware that John Mitchell and I were not friends, did not get along. The President really had no more reason to believe me that he did to believe Mitchell. So I was reluctant in any event to say anything to the President or make any recommendations to him for fear he would think I was trying to pass off on to Mitchell what were my own responsibilities, my own culpability.

We therefore concluded that the only way we could really help the President, which was my desire, and help him get the facts was to recommend to him that he appoint a Special Counsel.

Mr. JENNER. Did all this occur during your conversation with Mr. Shapiro on March 19?

Mr. COLSON. Yes, sir. I think Dave was the one who came up with the idea of let's get the President a Special Counsel, let's get him a lawyer of impeccable credentials, honest, objective, someone who has not been involved in all this Watergate mess, someone who will not be

suspect, someone who can go in and dig and get the facts and once the facts are on hand, then advise the President of what he can do.

I reminded Dave that I didn't like to make suggestions like that unless we had a specific recommendation and Dave came up with the name of J. Lee Rankin, who had been corporation counsel in New York and former Solicitor General of the United States. Dave knew Rankin, had worked with him, and decided to go to New York, which he did, to see if Rankin would be interested should the President wish to ask him to do that.

Mr. JENNER. Have you given us the substance of your conversation with Mr. Shapiro on March 19, 1973?

Mr. COLSON. That is correct.

Mr. JENNER. As best you now recall it?

Mr. COLSON. Correct.

Mr. Shapiro is reminding me that he called Rankin that morning and made a date to see him on March 21.

Mr. JENNER. And were you so advised by Mr. Shapiro?

Mr. COLSON. Yes.

Mr. JENNER. Now, did you happen to have a conversation with President Nixon on March 19?

Mr. COLSON. Yes, sir.

Mr. JENNER. Tell us the circumstances, how it occurred, what you said and what he said.

Mr. COLSON. I was at the Blair House that evening. There was a going away party for me which had been delayed until that evening. Most of the Cabinet was there, a lot of my friends and colleagues and former friends and former colleagues, some people from the Senate and the House. The President called in the middle of the party and I had to take the phone—take the call—at a little room in the Blair House, which is very difficult to talk from. I knew there were several extensions on that telephone and also, I was concerned someone would walk in or at a large gathering at the Blair House, someone would pick up another phone to make an outgoing call.

I remember I tried to get off the phone and I also remember we didn't talk anything of any substance and my recollection is that I did not mention anything of Shapiro's idea of a Special Counsel. That was not the place to do it. I didn't want to get into a substantive discussion with the President.

I do think we talked about Watergate in terms of its political impact. I recall that this evening—the effect of the Ervin hearings, how the President could best handle it.

He was worried at that point about who could deal with the committee. I know we talked about that. But we didn't talk about any of the matters, to my recollection, at least, that Mr. Shapiro and I had been discussing.

Mr. JENNER. During the course of that, have you now stated your recollection, sir?

Mr. COLSON. Yes, sir.

Mr. JENNER. During the course of that meeting, did the President make any reference to the fact or reference to whether he had had a meeting with John Dean?

Mr. COLSON. On the 19th?

Mr. JENNER. The 19th; yes, sir.

Mr. COLSON. I don't think he did, Mr. Jenner.

Mr. JENNER. All right, a meeting on the 19th or shortly prior thereto?

Mr. COLSON. I don't recall him discussing Dean that night at all.

Mr. JENNER. All right, thank you.

By the way, Mr. Colson, referring back to Mr. Shapiro's memorandum of his meeting with Mr. Hunt, did you examine that memorandum?

Mr. COLSON. Not at that time.

Mr. JENNER. When was the first time you did examine it?

Mr. COLSON. I think Mr. Shapiro had it in a safe deposit box, so he tells me. And I think it was after we met with John Ehrlichman in mid-April that actually he produced it.

Mr. JENNER. In any event, you did not see it on March 19—

Mr. COLSON. We gave it to the prosecutors in late April.

Mr. JENNER. That is when you first saw it?

Mr. COLSON. No, I think I saw it before that, but it was sometime in April. I am just giving you Mr. Shapiro's recollection.

Mr. JENNER. Has Mr. Shapiro recited to you or told you the substance of that memorandum on March 19, when you had your meeting with him following Mr. Shapiro's meeting with Mr. Hunt?

Mr. COLSON. He told me basically the substance of the conversation, yes, sir.

Mr. JENNER. All right.

Now, I would like to turn your attention to March 21, 1973. Did you have a conversation with the President on that day?

Mr. COLSON. Yes, I did, that evening—

Mr. JENNER. And can you fix the time?

Mr. COLSON. That evening at 7:53, the President called me. I was home—I don't know where he was, in the residence or his office.

Mr. JENNER. What did he say and what did you say?

Mr. COLSON. As I recall, very early in the conversation, Mr. Jenner, I told the President that Mr. Shapiro and I had been discussing what we might best recommend to him in connection with the Watergate, that we had come up with the idea that he might appoint a special counsel, someone who was independent, detached, had not been involved, who could assemble all of the facts, interrogate all of the people, and give the President hard information on which the President could act. I told the President that I thought it should be a lawyer whose integrity would be unquestioned and whose independence and objectivity would be respected, and I specifically told him that Shapiro recommended J. Lee Rankin and that in fact, Shapiro had gone to see Rankin and that while Rankin had not indicated that he would or would not accept it, it was our judgment—Dave's judgment and mine—that if the President asked him, he would accept.

I told the President that in that way, he could get some honest and objective opinions and could then decide what he wanted to do once he knew what the facts were.

Mr. JENNER. Did the President say anything?

Mr. COLSON. No, not about the Rankin recommendation. He said, how would Larry Walsh be, or what would you think of Larry Walsh

as a special counsel. I told the President that I did not think Walsh would be good as a choice because he had been too close to the administration, that he was identified as partisan politically, that he needed someone more independent than Walsh.

We concluded that part of the conversation, as I recall, by the President saying to me, well, see if you can come up with any other names.

I described to him J. Lee Rankin's background at that time, also.

I did say to the President shortly thereafter in the same conversation that I was troubled and concerned about John Dean, that I was no longer worried so much about who ordered the Watergate, which had been the focus of all of my attention prior to that time, and I think all of the President's attention prior to that time, but I was now worried about the things which had gone on afterward which might involve Dean and might involve an obstruction of justice that would come into the White House—I believe I used that phrase.

The President responded by saying something to the effect that Dean was only doing what he had to do, or words to that effect, or what anyone would have done under the same circumstances. I believe I said that was fine, all well and good through the election, but that now we were in a, I felt the situation was more serious.

I also confessed that I changed the subject because I had always found that the President didn't like staff backbiting. I was now an outsider and I took it that he didn't like my being critical of a member of the staff.

Further in the conversation, I reported to him a number of things that Senator Baker's administrative assistant had told me the night before when he came to my house about Senator Baker's attitude toward the Ervin committee investigation, what Senator Baker hoped to accomplish, how Senator Baker would like to deal with the administration, the cooperation that he hoped he would receive.

All of these things I reported to the President. And there was a time, and I think it was during this conversation, but it might have been later, when the President was asking me about Mr. Bittman. I think I may have said that I had been in touch with Bittman or I had talked to Bittman in the past. I don't know whether I raised the Bittman question or the President did. But in that context, the President said to me, what about the million dollars that Bittman—I think it was Bittman—has demanded, or what about the million dollars that Bittman wants?

I had never heard the million dollar figure. I had no idea what the President was talking about. I did not say I don't know what you are talking about, probably because I didn't want to appear so dumb. I sloughed it off and we changed the subject. I think I said something to the effect that that does not sound like Bittman to me.

I am not certain that this came up on March 21. It may have come up at a later time. I don't think it came up before, because I think I would have recalled it and I think I would have been more—I think it would have had a greater impact on me.

Mr. JENNER. Mr. Colson, when you returned the President's call or you went to the phonebooth and the President was calling, did he open up the conversation with you?

Mr. COLSON. Which call was that?

Mr. JENNER. The call you have just been telling us about.

Mr. COLSON. Oh, that was at home. He called me. I was at my own home that evening.

Mr. JENNER. And when you responded to the call, what did the President say?

Mr. COLSON. I don't recall how he began the conversation, Mr. Jenner. I know we got very quickly into the question of my recommendation and Shapiro's that he appoint a special counsel.

Mr. JENNER. Was there any request or comment by the President that he was seeking your recommendations on Watergate?

Mr. COLSON. He may have. I don't—I just don't know how the conversation—he may have asked for them. I don't know how we got into that subject now, to be honest. My draft Ervin statement says he asked for my recommendation and he may have. That may be how it began.

Mr. JENNER. Is that your best recollection at the moment?

Mr. COLSON. No; I don't recall at the moment how we got into it.

Mr. JENNER. Now, during the course of that conversation, when the President—

Mr. FLOWERS. Mr. Chairman.

The CHAIRMAN. Mr. Flowers.

Mr. FLOWERS. I wonder if counsel could clarify if we have a transcript of the conversation between the President and Mr. Colson of March 21.

Mr. JENNER. Mr. Chairman, we have subpoenaed—the committee has subpoenaed it, but the tape has not been furnished.

Mr. Colson, did you refer to or tell the President about Mr. Shapiro's meeting with Mr. Hunt in the afternoon of March 16?

Mr. COLSON. I doubt it very much, Mr. Jenner. I don't recall referring to it and I doubt that I would have, because I had decided that I could not—I had been cautioned by Mr. Shapiro not to do that.

Mr. JENNER. Alright.

Turn, if we may, Mr. Colson, to March 23, 1973.

Mr. SARBANES. Mr. Chairman.

The CHAIRMAN. Mr. Sarbanes.

Mr. SARBANES. Mr. Jenner, I wanted to be clear on one thing on that March 21 tape. Neither the tape nor a transcript has been furnished to us; is that correct?

Mr. JENNER. That is correct.

Mr. COLSON. I think I should be also clear, if I may, that my recollection of the President's reference to Bittman's demands is just that, that at some time in some conversation, he mentioned that to me. I cannot say it was during that conversation. I am positive we discussed the special counsel that night because Mr. Shapiro had called me from New York, but beyond that, I cannot be absolutely certain that is when the rest of that conversation might have occurred.

Mr. DANIELSON. Mr. Chairman.

The CHAIRMAN. Mr. Danielson.

Mr. DANIELSON. May I infer that the witness is referring to the conversation relative to a million dollars?

Mr. COLSON. Yes, sir.

Mr. DANIELSON. Thank you.

The CHAIRMAN. Please proceed.

Mr. JENNER. Thank you, Mr. Chairman.

Directing your attention to March 23, 1973, Mr. Colson, do you recall having a conversation with Mr. Haldeman on that day?

Mr. COLSON. Yes, sir.

Mr. JENNER. Was it a telephone conversation?

Mr. COLSON. Yes; it was. Mr. Haldeman called me, I think, from Key Biscayne.

Mr. JENNER. And tell me about what time of day it was as best you can recall?

Mr. COLSON. Well, it was around 2 or 2:15.

Mr. JENNER. In the afternoon?

Mr. COLSON. In the afternoon.

Mr. JENNER. All right.

Mr. COLSON. I dictated——

Ms. HOLTZMAN. What's the date you are referring to?

Mr. COLSON. March 23, Friday.

Mr. JENNER. March 23, 1973. That is a Friday.

You say you dictated a memorandum?

Mr. COLSON. I dictated a memorandum immediately after hanging up from talking to Mr. Haldeman.

Mr. JENNER. Now, if you will wait a moment, Mr. Colson, please.

Mr. Chairman and members of the committee, in the envelope which we furnished this morning is a 3-page document typewritten, dated March 23, 1973, 2:15 p.m., "Memorandum for the file from Charles Colson." May we have document identified as "Colson exhibit No. 20" and made a part of the record?

The CHAIRMAN. It will be so identified and marked.

[The document referred to was marked "Colson exhibit No. 20" and follows:]

[Colson Exhibit No. 20]

March 23, 1973

2:15 p.m.

MEMORANDUM FOR THE FILE

FROM: CHARLES COLSON

Bob Haldeman just called and asked what representations I had made to Howard Hunt with respect to the commutation of his sentence. I told him that I had made no representation, that I had not seen Howard Hunt since the Watergate, that I had seen his lawyer twice, perhaps three times, at his lawyer's request (and at John Dean's request). Bob asked what I had told Bittman, and I simply said that I told him essentially that I considered myself Howard Hunt's friend, that I would do anything anytime that I possibly could for Howard.

Bob asked whether I told Howard Hunt that his sentence would be commuted before Christmas and I said no, that I had not, that his lawyer had come to me and said that Hunt did not want to go to jail, that he was going to jail, but didn't want to stay in jail beyond the end of this year. I told Bittman that I had no control over that, that I couldn't make any representations in any respect, but that so long as I was around, I would do anything I could to help Hunt, that I felt he had been punished enough and that he should not be subject to further punishment. I told Bob that I was very clear in what I had said to Bittman, that in fact I wrote it down as I was saying it so that there would never be a misunderstanding, that I had made very explicit memoranda for the file and that I had advised Ehrlichman and Dean of the conversations since I had been asked by Dean to see Bittman.

Bob asked whether I had ever used anyone else's name in the conversation and I said no, that I had not. He asked whether Hunt might have the impression from my communication with Bittman that he, Hunt, would not serve beyond the end of this year in prison and I said that he might well have drawn whatever conclusions he wanted to from my having said that I would do anything I could to help him, having said that in response to the specific point that Hunt did not want to serve beyond the end of the year. However, Bittman, in my conversations with him, understood fully that I was not in a position to say anything more explicit than what I did say.

Haldeman asked whether I had ever met McCord or had anything to do with McCord and I said no. He asked whether I had ever made any representations to McCord and I said no. I explained that I had made no representations direct or indirect to anyone. Bob again asked whether Hunt could get the impression from what I said that he might be out before the end of the year and my answer was that Hunt could get any impression he wanted from the fact that I had stated I was his friend and that I would help him in any way I could but that I was explicit in my recollection that I had not said anything that would give anyone any cause to have any specific understandings. In fact, there was no understanding.

Bob asked whether I ever mentioned the fact that I had discussed this with anyone else and I said no, I had not, although in fact I did discuss it with Dean and Ehrlichman.

Bob then asked me what would happen if Hunt "blew". I said I thought it would be very bad, that from what I knew he would say things that would be very damaging. Bob said, "then we can't let that happen". I told Bob that I did not know how much Howard Hunt knew first hand, but that he had said things in one conversation with me (recording of which I have) and had said things to Shapiro and apparently Bittman, that would be highly incriminating, that this was one reason that acting on Shapiro's advice, I had nothing to do with Hunt or his lawyer over the past two weeks and have stayed out of any contact between Hunt or anyone else.

Bob then asked me about a phone conversation I had with Jeb Magruder. I told him precisely how I remembered the conversation, that Hunt and Liddy had come in my office one night, unannounced, that it was sometime in January or February (I could not remember when), that Hunt told me Liddy had been across the street, had some excellent plans and ideas for intelligence and counter-intelligence, but that he hadn't been able to get anyone to approve his plans. They started to explain what the plan was and I told them that I wasn't interested, that this was not my area, that I didn't want to get involved or spend the time, but that I would call Magruder and ask him to see them. I told Haldeman that I had called Magruder and asked Magruder to advise them, that is, Hunt and Liddy, or specifically Liddy, whether he was going to be used in the campaign or not. Liddy's position was that "if I'm just going to be sitting around, I don't want to waste my time; I have some ideas of how I can be helpful, but I don't want to just sit and waste time at the Committee". Magruder

3.

assured me that he would see that their plan was considered and that he would attend to it. I explained to Jeb that I wasn't advocating their plan because I didn't know what it was, but that Hunt was a good man and if they had some ideas that ought to be explored and used, that they should have an opportunity to talk to someone that could either authorize them to do something or not. Haldeman said that may not be the way Magruder remembers the conversation. Magruder, he said, seems to think that he was told to get their operation started by Colson. I told Haldeman that I had never been able to order Magruder to do anything.

I also did not urge him to do anything other than to let Liddy make a presentation of whatever his ideas were and in fact I specifically did not endorse them because I didn't know what the proposals were. I asked Bob whether he knew whether Magruder had any different recollection and he said no, but he had reason to think that he might.

I explained to Bob that Magruder didn't even remember the conversation, that I had written a memorandum right after the Watergate of everything I could remember and in it I had that phone conversation. When I showed the memo to John Dean, Dean said, in effect: "don't show that to anyone because Magruder does not ever remember your calling and in fact, has already testified. John told me, therefore, not to leave the memo lying around and not to use it because it might impeach Magruder's testimony.

I told Bob therefore that I was confident that Magruder either didn't remember the conversation or if he did now, certainly wasn't remembering it very accurately.

Haldeman went on to say that the reason for his call was the question before the House, i.e., should all White House aides volunteer immediately to go before the Grand Jury waiving all privilege. I told Bob if we did that we would in turn be waiving all privilege before the Hill and that we would end up in my opinion worse off, particularly since the Grand Jury has no rules of evidence, than if we simply continued to adhere to a sound position on executive privilege.

Bob said he was concerned that the President not appear to be covering up. I told Bob that I didn't think the President had done so.

Bob asked me in the conversation with Magruder whether I had said I was calling at anyone else's direction and I said no, that I realize the gravamen of his question which was, had I used the President's name and the answer was obviously no since I never did that and since the particular call, in any event, had not arisen out of anything that had come up with the President.

Mr. JENNER. Is that the memorandum, Mr. Colson, to which you have just made reference?

Mr. COLSON. Yes, it is. I dictated that immediately after talking to Mr. Haldeman on the phone.

Mr. JENNER. Would you please proceed.

Mr. SHAPIRO. Is there a pending question?

Mr. JENNER. I asked him what Mr. Haldeman said to him and what he said to Mr. Haldeman—I believe, Mr. Shapiro. If not, I will put that question.

Mr. COLSON. I think it is probably easier if I read this memo or the members of the committee do, because my independent recollection will not be as good as this memorandum.

Mr. JENNER. May I ask you a question or two in that respect, then, Mr. Colson. You have read this memorandum of recent date?

Mr. COLSON. Yes sir.

Mr. JENNER. And do you have present recollection that the memorandum now identified as Colson exhibit No. 20 is in fact the memorandum that you dictated immediately after your conversation with Mr. Haldeman on the afternoon of March 23, 1973?

Mr. COLSON. That is my recollection. This is the memorandum I dictated, yes, sir.

Mr. JENNER. And did you read the memorandum after your secretary prepared it?

Mr. COLSON. I don't know. I guess I probably did.

Mr. JENNER. It is in the same condition now as it was then except for the longhand notations at the bottom of page 1 and an occasional stamp on it, "DR", I guess it is.

Is that correct?

Mr. COLSON. I don't see that.

Mr. JENNER. They are not on your copy, Mr. Colson. They just happened to be on mine, so disregard that.

The memorandum is a little long, Mr. Colson. May I suggest you turn to page 2 and read the third full paragraph:

Bob then asked me what would happen if Hunt "blew." I said I thought it would be very bad, that from what I knew he would say things that would be very damaging. Bob said, "Then we can't let that happen." I told Bob that I did not know how much Howard Hunt knew first-hand, but that he had said things in one conversation with me (recording of which I have) and had said things to Shapiro and apparently Bittman, that would be highly incriminating, that this was one reason that acting on Shapiro's advice, I had nothing to do with Hunt or his lawyer over the past two weeks and have stayed out of any contact between Hunt or anyone else.

Mr. JENNER. That reflects your conversation with Mr. Haldeman?

Mr. COLSON. Well, that is the paragraph you asked me to read:

Mr. JENNER. Does the whole memorandum reflect your conversation with Mr. Haldeman on that afternoon?

Mr. COLSON. Yes, sir.

Mr. JENNER. Alright.

Mr. COLSON. Mr. Shapiro was sitting with me when the call came in and when I hung up the phone, I dictated immediately. I think he heard me dictate it. I tried to do it as faithfully as I could.

Mr. JENNER. I take it, then, you were in your law office?

Mr. COLSON. Yes, I was.

Mr. JENNER. Now, turning to April 12, 1973, did you have a conversation with the President on that day?

Mr. COLSON. Yes, the President called me in Massachusetts. I was at my parents' home in Dover, Mass. It was a relatively brief conversation. He commented on a speech I had given the night before and at which his daughter, Julie, was present. We talked a little bit about Julie.

He said, I want to get, I want to act on the Watergate matter, I have got to act on the Watergate matter; I would like your firm, precise, hard recommendations and would you put together, I think he called it a precise, or put together on a sheet of paper what your specific recommendations are as to what I should take at this time. And I would like to bring it in to me or to Rose Woods and see that it gets to me tomorrow as soon as you get back to Washington.

Mr. JENNER. What did you say?

Mr. COLSON. I said I would do it.

Mr. JENNER. Did you have a conversation with Mr. Ehrlichman the same day?

Mr. COLSON. About an hour later, as I recall, Mr. Ehrlichman called me and said that he understood that the President had called me and had asked for—he said he was aware of the President's request, that he had been investigating the matter on the President's behalf, and as soon as I had my recommendations prepared, he would like me to bring them to him.

Mr. RANGEL. Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Rangel.

Mr. RANGEL. Is it my understanding that all, that the witness has testified that in all of the conversations he has had with the President, that this is the first time that the President has asked him anything specifically about Watergate? In connection with White House involvement?

Mr. COLSON. I don't think I could—I don't think I could accept that characterization. I think he asked me about my own involvement right after the—

Mr. RANGEL. With the exception of your own involvement.

Mr. COLSON. I guess it is the first time, unless he asked me on March 21st for—well, he often asked me for recommendations with respect to handling the issue. I think as to specifically what he should do during this period, he may have asked me that on March 21st when he called. I vividly recall him asking for it in this instance, because he asked for it in writing and asked me to bring it in as soon as possible.

Mr. RANGEL. Thank you.

Mr. JENNER. That request of Mr. Ehrlichman's was that you deliver the written recommendation memorandum to him?

Mr. COLSON. Yes.

Mr. JENNER. Rather than the President?

Mr. COLSON. Yes.

Mr. JENNER. And did he say rather than the President?

Mr. COLSON. No, I think that was implicit in his saying he knew about the President's request and since he was doing the investigating, would I bring it in to him.

Mr. JENNER. Now, turning, if you will, to April 18, 1973—I am sorry, the 13th. Did you have a meeting with Mr. Ehrlichman on April 13, 1973?

Mr. COLSON. Yes. I went to Mr. Ehrlichman on the morning of the 13th.

Mr. JENNER. Tell us how that meeting took place. I mean did you arrange it or did you just walk in, or what?

Mr. COLSON. No, I called Mr. Ehrlichman and said that I would like to see him and went over to see him on Friday morning, April 13th.

Mr. JENNER. At his office in the White House?

Mr. COLSON. Yes.

Mr. JENNER. All right.

Mr. COLSON. I said that I needed to know from him what information he had obtained so that I could prepare my recommendations to the President more intelligently. I remember I said to him specifically, I would like to know who in hell ordered the Watergate, because it is essential to know that before I can make any recommendations if by now you have found out.

Ehrlichman said that he had been digging into the matter himself, that he did not have all the critical facts but was trying to assemble them. He had just been interviewing people.

He did tell me that he had had to take over the investigation inasmuch as Jonh Dean had been told to go to Camp David to write a report, could not write one, and that raised doubts about the adequacy of Dean's work. And that he, Ehrlichman, had had to take over and he still did not know who had ordered the Watergate.

I explained to John that Dave Shapiro and I had been digging around, that we did have a series of recommendations. I'd kind of like Ehrlichman to hear them directly from Shapiro and myself.

We arranged to meet later in the afternoon and later in the afternoon, Mr. Shapiro and I—

Mr. JENNER. Before you get to that next meeting, I'd like to complete your testimony as to what occurred at the meeting about which you are now testifying. Did you deliver anything to Mr. Ehrlichman on that occasion?

Mr. COLSON. No, I think I left it with him in the afternoon. I had a draft in the morning—no, I guess I didn't. Dave and I left my paper with him that afternoon.

Mr. JENNER. That is—it was a written draft of what?

Mr. COLSON. The recommendations the President had asked me to prepare for him.

Mr. JENNER. Now, you did meet with Mr. Ehrlichman later that afternoon?

Mr. COLSON. Yes, sir.

Mr. JENNER. Excuse me a moment.

Was the previous meeting in the morning or in the afternoon?

Mr. COLSON. I think it was in the afternoon.

Mr. JENNER. All right. So you then met in the afternoon?

Mr. COLSON. Correct.

Mr. JENNER. Who accompanied you, if anybody?

Mr. COLSON. Mr. Shapiro.

Mr. JENNER. And who was present during the course of the meeting with Mr. Ehrlichman, other than Mr. Shapiro, Mr. Ehrlichman, and yourself?

Mr. COLSON. That was it.

Mr. JENNER. And was the meeting in Mr. Ehrlichman's office?

Mr. COLSON. Yes, it was.

Mr. JENNER. Tell the committee what that conversation was.

Mr. COLSON. Well, we told John Ehrlichman that we had, Dave in particular had been talking to a number of people, reporters had been trying to get information. I think Dave even told Ehrlichman at that point that he had met with Hunt back in March, and we discussed a whole series of recommendations that Mr. Shapiro and I had jointly come up with that we thought would be helpful to the President in the President breaking open the Watergate himself. I can tell you what those recommendations were or I can summarize them.

Mr. JENNER. Please do so.

Mr. COLSON. We urged that anyone who had anything to do with planning or approving the Watergate be exposed.

We recommend that the President watch all executive privilege for the Watergate itself and/or any alleged criminal conduct arising out of Watergate.

We alternatively suggested the President waive executive privilege for all of those things and for campaign issues for principal White House aides like Bob Haldeman and myself.

We once again urged the appointment of an independent Special Counsel.

We urged that John Dean be immediately replaced.

And finally, Dave Shapiro suggested to John Ehrlichman that Mr. Liddy and his counsel be called into the Oval Office and be told by the President himself that he, the President, wanted Liddy to get the whole truth and to tell the whole truth and to tell Liddy that was his duty to the country.

Dave added that he had heard that Liddy was remaining silent because he had been assured of a pardon. Shapiro said that Liddy should be told that the only way he could be considered for clemency would be if he were to come forward now and tell the truth. We were both convinced that Mr. Liddy held the key to finding out who had ordered the Watergate.

Mr. JENNER. Have you given the substance of that meeting as you now recall it?

Mr. COLSON. Yes; and I should point out for the benefit of the committee that Mr. Ehrlichman took extensive notes throughout that meeting, which notes he produced at the Senate Select Committee hearings, and which were printed much to Mr. Shapiro's distress, in the record of the hearing of the Ervin committee, because the final concluding line was that Mr. Shapiro volunteered to defend John Mitchell because he thought he had a brilliant defense of insanity and he thought whoever had ordered the Watergate had been insane. This caused a brief distress between Mr. Shapiro and his colleagues at this time.

Mr. SANDMAN. All these recommendations were made on April 13, is that correct?

Mr. COLSON. Yes, in the afternoon, about 4 o'clock, I think, 4:30.

Mr. JENNER. Have you completed stating your recollection now or all you recall as to that meeting?

Mr. COLSON. That is basically what was discussed at that meeting, yes, sir.

Mr. JENNER. Turning to April 13, 1973, did you have a conversation with Mr. Ehrlichman?

Mr. COLSON. We did—

Mr. JENNER. Excuse me. Did you have a conversation?

Mr. COLSON. We did also talk about rumor that we had heard—

Mr. JENNER. Are you back on April 13? I'm sorry.

Mr. COLSON. Yes.

Mr. JENNER. All right, go ahead.

Mr. COLSON. We talked about a rumor that we had heard that McCord was accusing me of having ordered the Greenspun operation, which I had never heard of. I had never heard of Greenspun.

Mr. SEIBERLING. A point of clarification, Mr. Chairman.

Has the witness finished listing the things, the recommendations—we have five recommendations here—depending on how you break them down. Is that all?

Mr. COLSON. I think those were all the recommendations, yes, sir.

Mr. SEIBERLING. Thank you.

Mr. JENNER. Anything else you remember with respect to what occurred and what was said at the meeting with Mr. Ehrlichman attended by Mr. Shapiro and you on the afternoon of April 13, 1973?

Mr. COLSON. No, I think the only other thing, Mr. Jenner, which would be relevant for the members of the committee is that that evening, after I got home, John Dean called me. He said that he was aware of what we had recommended to Ehrlichman.

Mr. JENNER. Did you use the pronoun, "we"?

Mr. COLSON. We being Shapiro and myself, recommend to Ehrlichman.

Mr. JENNER. Yes.

Mr. COLSON. He said that following our meeting, Shapiro's and mine with Ehrlichman, that John Ehrlichman had come down and briefed both Haldeman and Dean on our recommendations as a personal favor, would you just tell me how I'm going to be implicated?

I told him what I understood that Hunt would say that he had been ordered out of the country. Dean reminded me that I was the guy that exploded and turned that off. Dean thought it was in Ehrlichman's office. It was not. And he said, "Today I will tell you the whole story about the Watergate" and hung up.

Both Shapiro and I were very upset that Ehrlichman had gone to Dean immediately after, on the 13th immediately after we had recommended again that Dean be replaced.

Mr. JENNER. Is that all that occurred on the 13th of April 1973?

Mr. COLSON. Correct.

Mr. JENNER. Turning to April 17, 1973, did you have a conversation with Mr. Ehrlichman?

Mr. COLSON. Mr. Ehrlichman called me, as I recall.

Mr. JENNER. Where were you?

Mr. COLSON. I guess in my law office.

Mr. JENNER. All right. Do you know whether that conversation was recorded?

Mr. COLSON. I do now. I didn't at the time.

Mr. JENNER. All right.

Mr. Chairman, delivered to the committee this morning is a five-page exhibit entitled "Transcript prepared by the Impeachment Inquiry Staff for the House Judiciary Committee of a recording of a telephone conversation between John D. Ehrlichman and Charles Colson on April 17, 1973." For purposes of identification, Mr. Chairman, this document happens to be at book IV, tab 68.3, volume V,¹ but inasmuch as the witness will refer to it, may we have it marked for identification for the purposes of this testimony as Colson Exhibit No. 21?

The CHAIRMAN. It will be so identified.

[The document referred to was marked Colson Exhibit No. 21 and follows:]

¹ See HJC, "Statement of Information," book VII, pt. 3, item 68.3, p. 968.

[Colson Exhibit No. 21]

TRANSCRIPT PREPARED BY THE IMPEACHMENT INQUIRY STAFF
FOR THE HOUSE JUDICIARY COMMITTEE OF A RECORDING
OF A TELEPHONE CONVERSATION BETWEEN JOHN D. EHRLICHMAN
AND CHARLES COLSON ON APRIL 17, 1973

EHRLICHMAN: Hello.

FEMALE VOICE: Hello.

EHRLICHMAN: Hello.

FEMALE VOICE: Mr. Colson's office.

EHRLICHMAN: Yes. This is John Ehrlichman.

FEMALE VOICE: Hi, Mr. Ehrlichman.

EHRLICHMAN: Is Mr. Colson in?

FEMALE VOICE: Yes, just a minute, please.

COLSON: Hello.

EHRLICHMAN: Hi.

COLSON: Hi, John. I'll be over about eleven if that's
convenient.

EHRLICHMAN: Fine. That's very good.

COLSON: Two quick questions, though -- uh, well, one thing I should tell you is that our grapevine, uh, last night really started accelerating. Uh, something coming out this morning -- "Dean involved" -- uh, now I notice the L. A. Times has it this morning -- but the people that Shapiro has been getting information from. You know the town is buzzing with -- is alive with the story.

EHRlichMAN: Huh.

COLSON: So I don't think we have a hell of a lot of time

EHRlichMAN: All right.

COLSON: to beat anybody to

EHRlichMAN: All right.

COLSON: the [unintelligible]. I just thought I'd let you know that. [Unintelligible] Did he, when he went over there -- uh, was he given any immunity?

EHRlichMAN: Not yet. What they have done apparently --

COLSON: They shouldn't give it to him.

EHRlichman: I know it. What they said to him is that unless he turns up corroborated evidence against Haldeman and me --

COLSON: Is that who he's trying to nail?

EHRlichman: Sure.

COLSON: Who? Dean is?

EHRlichman: Yup.

COLSON: That's John Mitchell again. Son-of-a-bitch.

EHRlichman: Unless, unless he does that, he doesn't get immunity. Now my grapevine tells me that you are going to be summoned over there today.

COLSON: Oh, really?

EHRlichman: Yup. And that uh, they are going to ask you about a meeting in my office which Dean has highlighted as the central uh, uh, gem stone in the case against me. And, uh, so just in case you get hauled over there before eleven o'clock, maybe I'd better tell you about it. Uh, it was a meeting that Kehrli, Clawson, you, Dean and I had here.

COLSON: I wasn't there.

EHRlichman: In my office?

COLSON: I was not there.

EHRlichman: Hm.

COLSON: Dean tried this -- Dean tried this one out on me Friday night, and I said "I -- the only thing I can ever really recall, John, is I once told you that I thought it was a stupid God damn thing for Hunt to be a --, unavailable."

EHRlichman: Well, that's the, that's the meeting where supposedly I ordered him to tell Hunt to leave the country.

COLSON: Never heard that, and, and I will so state under oath.

EHRlichman: Uh, or that I, uh, admonished everyone that we ought to figure out some way to "deep six" the contents of Hunt's safe.

COLSON: No. No way. I was the one who said, "Go get Hunt's safe and be sure it's preserved for the FBI."

EHRlichman: Right.

COLSON: A. And B, it's stupid to get him out of the country but that was in my office, not in yours, and you weren't present.

EHRlichMAN: No.

COLSON: I can handle that one easily.

EHRlichMAN: But you were not in a meeting here?

COLSON: Well, I may have been, but I sure don't remember that.

EHRlichMAN: That's the way. Okay.

COLSON: All right?

EHRlichMAN: Yeah.

COLSON: I can handle that.

EHRlichMAN: Thank you.

COLSON: We'll see you --

EHRlichMAN: I'll see you at eleven.

COLSON: There are a couple of things that you and I need to do to protect each other's flanks here.

EHRlichMAN: [Laughs]

COLSON: But -- Listen, we'll talk about that.

EHRlichMAN: All right.

COLSON: But, uh -- no, I'm serious.

EHRlichman: Well, uh --

COLSON: Let's get,

EHRlichman: fair enough.

COLSON: let's get it, uh, clearly understood that that son-of-a-bitch doesn't get immunity. I want to nail him.

EHRlichman: Well, I'm doing my best.

COLSON: No. I want to nail him. I'll take immunity first.

EHRlichman: Okay.

COLSON: All right?

EHRlichman: All right.

COLSON: Good.

EHRlichman: All right.

COLSON: Thanks.

Mr. JENNER. Would you please tell us without looking at the exhibit, Colson Exhibit 21, would you please tell us what was said in that conversation?

Mr. COLSON. I would not have independently recalled this conversation but for having the transcript now.

Mr. JENNER. Have you read the transcript?

Mr. COLSON. Yes, sir.

Mr. JENNER. And has it served to refresh your recollection?

Mr. COLSON. Well, I assume it is accurate.

Mr. JENNER. Well, has it served to refresh your recollection of that conversation?

Mr. COLSON. No, because I don't recall the particular conversation. I guess I recall one part of it.

Mr. JENNER. Tell us what part and refer to the page number.

Mr. COLSON. I think on page 4, I recall Ehrlichman saying to me that Dean had said that I was in his office when I exploded about Hunt being sent out of the country, and I said, no, Dean had called me about that on Friday night and I said it was a stupid God damn thing for Hunt to be sent out of the country. But it was in my office, not in John Ehrlichman's office.

I also remember being furious when I first learned, which I guess was in this conversation, that John Dean had gone to the prosecutors seeking immunity, because I thought that his first duty as the President's counsel was to try to help the President get out in front of Watergate and not go to the prosecutors and seek to, in effect, save his own neck and put the President in a difficult position. I felt that anyone as counsel to the President had his first duty to the President. It infuriated me.

Mr. JENNER. Directing you to page 5 of that transcript, do you recall saying to Mr. Ehrlichman, "There are a couple of things that you and I need to do to protect each other's flanks here"?

Mr. COLSON. I don't recall saying that, but I see it printed here and I assume I said it.

Mr. JENNER. And on the last page, your remark, "Let's get it, uh, clearly understood that that son of a bitch does not get immunity. I want to nail him."

Mr. COLSON. I thought it would be the grossest kind of injustice if John Dean—

Mr. JENNER. Do you recall making that remark, first?

Mr. COLSON. I recall making a remark to that effect, yes.

Mr. JENNER. And then Mr. Ehrlichman's response in the next line, "Well, I'm doing my best." Do you recall that?

Mr. COLSON. No.

Mr. JENNER. Do you have any occasion or feeling to doubt the authenticity of this transcript?

Mr. COLSON. No, I am perfectly willing to accept it just as it is written here.

Mr. LATTI. Mr. Chairman.

The CHAIRMAN. Mr. Latta.

Mr. LATTI. The witness was about to make a comment there and Mr. Jenner cut him off.

Mr. JENNER. I'm sorry if I did.

Were you about to make a comment, Mr. Colson?

Mr. COLSON. I don't think so.

Mr. LATTA. Immediately after he asked him, let's get it clearly understood, et cetera.

The CHAIRMAN. The witness says he does not think so.

Mr. COLSON. That is right. I guess I was about to say was that I thought it would be the grossest injustice if the man who I now realized had been involved in the Watergate since before the break-in and had obviously caused all this trouble for the President were to now get immunity from prosecution and turn on the President—I just thought that was the wrong thing morally and legally.

Mr. JENNER. May we turn now to April 22, 1973, Mr. Colson? Did you have a conversation with President Nixon on that day?

Mr. COLSON. Yes, sir.

Mr. JENNER. Was that a telephone conversation?

Mr. COLSON. Yes, it was.

Mr. JENNER. Did you call the President or did he call you?

Mr. COLSON. The log says that the President placed a long-distance call to me at my home at 7:55 in the morning.

Mr. JENNER. Is that your best recollection at the moment?

Mr. COLSON. Yes, sir.

Mr. JENNER. And relate that conversation or its substance to us.

Mr. COLSON. Well, he wished me a happy Easter, which I guess he did several people that day. He principally called, I think, to assure me that Ron Ziegler, who had called me the day before asking for some information about Watergate, was in fact calling with the President's knowledge. Ziegler had called me on Saturday morning to ask me some questions. It was a very minor point that Ziegler asked and I guess I gave Ron kind of a hard time because I didn't know why he was calling. The President told me that if I had any information to pass on to him that I should call him directly or call Ron Ziegler or, if Ziegler called, he was calling with the President's authority. He told me not to talk with Haldeman or Ehrlichman or anyone else, as I recall, but to deal with Ziegler or himself.

He said that he had become deeply involved with working with Henry Petersen. He asked me about a news report which had come out in the Los Angeles Times and which was running on the wires to the effect that I was about to tell everything I knew, which was a distorted account of an off the record conversation Mr. Shapiro had had with a Los Angeles Times reporter.

Mr. JENNER. Is this something you told the President or is this an observation of your own?

Mr. COLSON. No, the President asked me about a story that was on the wires that moment.

Mr. JENNER. And you told him?

Mr. COLSON. Pardon?

Mr. JENNER. And you told him what?

Mr. COLSON. I told him that Dave Shapiro had had a conversation with a Los Angeles Times reporter but that the story had been distorted. What Shapiro meant was that I would be meeting with the prosecutors and explaining everything I knew about Watergate to them, but that the implication in the story was in error, that I was

about to have a large public press conference, which is what the story sounded like.

Finally, the President told me that he had been involved in this himself, he was trying to get the facts, he was working directly with Henry Petersen at the Justice Department.

And he said,

By the way, Chuck, you will be happy to know that Petersen says that you have no problems. The only difficulty that Petersen sees, or the only involvement on your part, is a phone call you made to Jeb Magruder prior to the Watergate.

I explained to the President the circumstances of that call and told him that it was totally unrelated to Watergate, and that was the end of the conversation.

Mr. JENNER. Was Mr. Dean mentioned in the course of this conversation?

Mr. COLSON. I don't recall his being mentioned, Mr. Jenner.

Mr. JENNER. Now, that same day—excuse me, sir. Perhaps I was inattentive. Did this telephone conversation take place at night, afternoon, or morning?

Mr. COLSON. According to the logs, and that is my recollection, 7:55 a.m. to 8:21 a.m.

Mr. JENNER. Mr. Chairman and ladies and gentlemen of the committee, the committee did not subpoena this conversation.

Now, following that early morning call, did you have a conversation with Mr. Ehrlichman?

Mr. COLSON. Yes; Mr. Ehrlichman called me—

Mr. JENNER. How soon afterward, sir?

Mr. COLSON. Within about an hour.

Mr. JENNER. And where were you?

Mr. COLSON. Still at home.

Mr. JENNER. All right.

Mr. COLSON. At the moment, at that particular time, I was under siege from a lot of television cameras out in the driveway and John said he wanted to refresh his recollection on some facts. I really can't now tell you what it was he was calling about, but the first thing he said was, I understand the President has talked to you this morning. I was surprised that Ehrlichman knew that the President had called me, inasmuch as the President had indicated I should call Ziegler.

I can't remember the substance of what it was Ehrlichman was asking me about.

Mr. JENNER. Have you exhausted your recollection as to that conversation?

Mr. COLSON. Yes sir.

Mr. JENNER. Directing your attention to April 28, 1973, did you have a conversation on that day with Mr. Ziegler?

Mr. COLSON. Yes., Mr. Ziegler called me. I was—

Mr. JENNER. Where were you?

Mr. COLSON. I was in my son's dormitory room at Princeton.

Mr. JENNER. And what time of day or evening was it?

Mr. COLSON. It was late evening. When I arrived there, my son said that there had been a call from the White House, he believed it was from the President. I returned it. The President was at Camp David. Ziegler took the call and simply asked me—he said—I think

he said that the President had retired, or was not available, but he wanted my opinion—the President wanted my opinion on whether it was time to move on removing the big two, as he put it.

Mr. JENNER. Who were the big two?

Mr. COLSON. Meaning Haldeman and Ehrlichman. And I said to Ziegler that its time for something, and if that is what's called for, you had better do it; you have got to do something fast.

Mr. JENNER. Is that the substance of the conversation?

Mr. COLSON. Yes sir.

Mr. JENNER. Directing your attention to April 30, 1973, did you have a conversation with President Nixon?

Mr. COLSON. Yes. I did.

Mr. JENNER. Was it a telephone conversation?

Mr. COLSON. Yes.

Mr. JENNER. Did he call you or did you call him?

Mr. COLSON. He called me, but I had called Rose Woods.

Mr. JENNER. All right. Where were you?

Mr. COLSON. At home.

Mr. JENNER. All right. You had called Rose Woods. I interrupted you. Go ahead.

Mr. COLSON. Right after the President's speech, when he announced the resignation of Messrs. Haldeman, Ehrlichman, Kleindienst, I called Rose and said, it's been a tough night for the President, a tough day, and just wish him well and tell him I'm thinking about him.

He called back—the President called about an hour later, I guess, and he said he had gotten my message from Rose and that he was, he appreciated it. It was a hard day, and he said something to the effect, "God bless you, Chuck, you have been right all along, you have been right from the beginning."

Then he said something to the effect, "I think the public will understand the national security question, don't you?" I did not know what he was referring to. I assume I said yes. And that was the end of the conversation.

Mr. JENNER. All right. Directing your attention to June 2d or June 3d, 1973, did you have a conversation with President Nixon?

Mr. COLSON. Yes.

Mr. JENNER. Are you able to fix the date anymore definitely than either June 2d or June 3d? 1973?

Mr. COLSON. It was the first weekend of June. I know I was in New York at a wedding of one of my law partners son's.

Mr. JENNER. Hold on a minute.

June 1st was a Friday, June 2d a Saturday, and June 3d a Sunday.

Mr. COLSON. Pardon?

Mr. JENNER. Does that help you any?

Mr. COLSON. The second and third it would be.

Mr. JENNER. The second and third were Saturday and Sunday respectively.

Mr. COLSON. Correct.

Mr. JENNER. Was it either one of those days?

Mr. COLSON. It was both those days, all right.

Mr. JENNER. The President called you.

Mr. COLSON. I had spoken earlier that week with Mr. Buzhardt and had told Mr. Buzhardt that I was incensed with John Dean's charges

about the President. I thought they were untrue. I knew that a number of the statements Dean had made publicly about my involvement were untrue. I knew firsthand that a lot of what Dean was saying was just not so, and I called Buzhardt and said I'd like to accept some television interviews—I think Face the Nation had asked me to appear—and I'd like to defend the President, because I think Dean is lying; but I want to be sure it's all right with the White House and that the President or you or somebody wants me to do it.

The President called on that Saturday and said he had talked to Buzhardt about my appearing, about my desire to appear on television. The President said that is fine if you want to do it, Chuck, but be very careful; protect yourself, think of yourself, you have got your own responsibility and your family. Don't stick your neck out on my behalf, don't do anything that will make you a target. Take care of yourself first.

I said, I haven't got anything to worry about. I was not involved in the Watergate and I was not involved in any of the other stuff that accusations have been made, so I think I'm the one guy that maybe can go out and do some good for you.

He said, the only place you have some concern is on the clemency issue that Dean has accused you of. I said to the President, we never discussed clemency. I said, Mr. President, you and I never talked about that.

I then proceeded to tell him very precisely what I have testified to at this committee today, that I discussed my compassion for Hunt, I expressed my concern for Hunt, and the President had interrupted me and simply said, I just can't imagine how, under those circumstances, the man will go to jail.

I reported that to the President. He seemed almost pleasantly surprised. I think, personally, that he had been told so many times by Dean and others that clemency was discussed that he may have even thought it was. But it was not.

The President said, good. He said—I had the feeling in that conversation that he had been genuinely confused by all of the conflicting accounts. I told him exactly what in fact I had said to him and I think he said, of course, of course.

Then we talked about what I might be able to do to help in terms of television interviews.

He called me the next day to just discuss some thoughts he had with respect to my appearing on television. I thereafter did several interviews, and an ABC special with Howard K. Smith, "Face the Nation," the "Today" show.

Mr. JENNER Have you given us the substance and all of the conversation that you are able to recall at the moment?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you.

Directing your attention to the fall of 1973, do you recall having a conversation with Mr. Buzhardt respecting a conversation that you had with Mr. Bittman?

Mr. COLSON. Mr. Buzhardt called me——

Mr. JENNER. Do you recall?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right. Now fix the time as best you are able to do so.

Mr. COLSON. I don't know, I think it was sometime in October or November.

Mr. JENNER. 1973?

Mr. COLSON. Correct.

Mr. JENNER. Was it a telephone conversation?

Mr. COLSON. Yes.

Mr. JENNER. Did you call Mr. Buzhardt or did he call you?

Mr. COLSON. Buzhardt called me.

Mr. JENNER. All right. Would you tell us about the conversation, please?

Mr. COLSON. Buzhardt called and he asked whether I knew Bittman and could talk to Bittman. I told him I did, that I could talk to Bittman.

He said, would you try to find out for us, Chuck, when Bittman received the last payment in March 1973? I told him I would be glad to.

I asked Mr. Shapiro, who knew Bittman better than I did——

Mr. JENNER. Did you—have you given us all the conversation of Mr. Buzhardt, first?

Mr. COLSON. That is the thrust of it, Mr. Jenner.

Mr. JENNER. What next?

Mr. COLSON. I told him I would try to find out and I asked Mr. Shapiro if he would call——

Mr. JENNER. You then went into Mr. Shapiro's office, did you?

Mr. COLSON. Well, he may have come into mine.

Mr. JENNER. Well, it was in your law offices, you had a conversation with Mr. Shapiro.

Mr. COLSON. Yes, sir.

Mr. JENNER. Shortly after your telephone conversation with Mr. Buzhardt, right?

Mr. COLSON. Yes, sir.

Mr. JENNER. And you and Mr. Shapiro, only the two of you, were present?

Mr. COLSON. I don't know. I mean I know I communicated——

Mr. JENNER. All right, now, tell us what that conversation was.

Mr. COLSON. Mr. Shapiro then told me that—Mr. Shapiro came to find out from Mr. Bittman and asked Mr. Shapiro if he could find out from Mr. Bittman.

Mr. JENNER. Was—that is the substance of that conversation?

Mr. COLSON. Yes, sir.

Mr. JENNER. Then what next occurred?

Mr. COLSON. Mr. Shapiro told me that he talked to Mr. Bittman——

Mr. JENNER. Is this all the same day?

Mr. COLSON. I think probably it was.

Mr. JENNER. All right.

Mr. COLSON. Mr. Shapiro then told me that—Mr. Shapiro came to me and said that he had talked to Mr. Bittman and that the payment was made; the last payment was received by Mr. Bittman before March 21.

Mr. JENNER. Did he fix a date?

Mr. COLSON. I think it was just—I think he said it was before the 20th or the 21st. He was clear that it was before March 21.

Mr. JENNER. I see. And this is something Mr. Shapiro related to you respecting his conversation with Mr. Bittman?

Mr. COLSON. That is correct.

Mr. JENNER. Then what did you do?

Mr. COLSON. I called Mr. Buzhardt and gave him that information.

Mr. JENNER. What did he say?

Mr. COLSON. He asked me if I had talked personally with Mr. Bittman and I told him I had not, that Mr. Shapiro had, and he said, it's very important; we are just trying to pin the date down. I asked him why it was important and he said, can't you figure it out?

I said, well, I guess I can.

He said just be absolutely sure you are right.

And I said, well, I will call Bittman myself, which I did, thereafter.

Mr. JENNER. The same day?

Mr. COLSON. I don't know.

Mr. JENNER. What's your best recollection?

Mr. COLSON. As soon as I had an opportunity, I called Mr. Bittman myself.

Mr. JENNER. All right.

Did you reach him?

Mr. COLSON. Yes.

I asked Mr. Bittman, I said I'm sorry to bother you, I know Dave has already asked you, but we want to be sure about this.

He said, yes, I'm positive, it was before the 21st. I then called Mr. Buzhardt back and told him I had checked it myself and I was sure it was so.

Mr. JENNER. Now, you have given us the substance of that series of conversations occurring on the day you identified?

Mr. COLSON. Yes, sir.

Mr. BUTLER. Excuse me, counsel, did you inquire as to the amount of payment that he was referring to as the last payment?

Mr. JENNER. Yes, was any mention made as to the amount of the last payment?

Mr. COLSON. No. I'm sure it was just when the last payment was made to Mr. Bittman.

Mr. RANGEL. Mr. Chairman, could counsel find out payment from whom?

Mr. COLSON. Yes, this was a payment from whom to whom.

I don't know. I think by now the whole business about the payments had been pretty well publicly reported.

Are you shaking your head, Father Drinan?

Mr. JENNER. What payment did you have in mind, Mr. Colson, when Mr. Buzhardt asked you on what date was the last payment made?

Mr. COLSON. We are talking now about the fall of 1973. I think at the Ervin hearings, it was pretty well public knowledge that there had been payments made to the defendants.

Mr. JENNER. I think that is so, Mr. Colson. My question was what did you have in mind as to what Mr. Buzhardt was talking about when he asked you to determine when the last payment was made.

Mr. COLSON. I assume the payments that were made by, in various ways, all of which we all read about and heard about in the Ervin hearings, that were made to the defendants.

Mr. JENNER. Including Mr. Hunt?

Mr. COLSON. Yes.

Mr. JENNER. And——

Mr. COLSON. I don't think Mr. Buzhardt specified from whom. He just said, find out when the last payment was made to Bittman.

I think it had already been testified to that Bittman had received—sure, Hunt had already testified that he had received his last payment or received the last amount from Bittman and then paid Bittman legal fees.

Mr. JENNER. So you had that testimony in mind when you talked to Mr. Buzhardt?

Mr. COLSON. I am sure I must have. I didn't have any trouble understanding what he wanted to know.

Mr. JENNER. All right.

Directing your attention to the month of December 1973, did you have a meeting with President Nixon during that month?

Mr. COLSON. Yes, I did.

Mr. JENNER. And was that a person to person meeting or a telephone conference?

Mr. COLSON. We had a personal visit in December.

Mr. JENNER. Where was it?

Mr. COLSON. In the Lincoln Sitting Room.

Mr. JENNER. What time of day or night?

Mr. COLSON. Oh, I don't remember. It was in the afternoon sometime.

Mr. JENNER. All right. Could you give us your best recollection as to what day in December it was by way of date?

Mr. COLSON. Well, I think it was the 18th, because there had been a newspaper story about my own religious experience that was unwelcome publicity to me, but I remember the President asking me a lot about it. We talked a great deal about it. And I think it was the day after that that story appeared, and that story appeared on December 17.

Mr. JENNER. All right. Relate the conversation, please.

Mr. COLSON. We talked about a lot of things. Some were just plain personal conversation.

Mr. JENNER. Well, you need not relate the personal things.

Mr. COLSON. I think the only thing that came up that had any relationship to Watergate was the President was very anxious to be sure that I was correct in my recollection about the fact that there had been no discussions of clemency. He said he hoped I would go back and double check my own notes and he asked me to recall specifically what was said again, as I had done with him on the telephone in June, a month before—I mean 6 months before.

He said, are you sure, Chuck, it didn't come up at any other time in any other way? I said yes, I'm positive of it.

He said, could you really rack your brain and be sure you didn't say something casually or something in passing? I said no, I am positive I didn't.

I told him I had reviewed my notes and there was nothing in there but that I very clearly recalled the only time I discussed that with him and it was not clemency and was not commutation. It was as I have testified to it today.

We went back over that ground again and generally discussed the whole Watergate problem as he was viewing it at that time. But that was again in terms of how he might handle it.

Mr. ADAMS. Excuse me, Mr. Chairman. Could I inquire. Could I inquire what the committee's intention is in terms of the remaining schedule this evening? I think it is apparent that Mr. Colson is wearing some. I wonder if I could know what the committee's desire is.

Mr. JENNER. Mr. Chairman, may I address the committee on that subject?

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. I will conclude with this witness on Watergate in about 6 minutes, but I have also to cover with the witness on ITT and dairy.

The CHAIRMAN. How long do you propose to take with that?

Mr. JENNER. ITT and dairy will run not to exceed 25 minutes.

I must say—that is together.

I must say, Mr. Chairman, that I am a little weary myself at the moment and I would just as soon have a little food or something.

The CHAIRMAN. Well, the Chair intends to do that, but the Chair had intended that in light of the schedule that we have, we were going to go on after you had completed that phase of your inquiry and then take a break and go on with Mr. St. Clair.

Mr. JENNER. I can finish, Mr. Chairman. I have no problems on that score.

The CHAIRMAN. How long were you going to take with this phase of it?

Mr. JENNER. I would say it would take 25 minutes, not to exceed, to complete everything.

The CHAIRMAN. To complete ITT and the dairy?

Mr. JENNER. And the little bit I have left of Watergate.

The CHAIRMAN. Let's complete that first and then we will make a determination after that.

Mr. JENNER. Directing your attention to January 1974, did you have a conversation with the President during that month?

Mr. COLSON. Yes, I did. I think I had a couple of conversations during the month of January.

Mr. JENNER. Do you recall a conversation you had with him during the month of January respecting the CIA?

Mr. COLSON. We had a long conversation.

Mr. JENNER. Fix the time and whether it was a telephone conversation, who called whom, and where were you?

Mr. COLSON. I was in my home, it was a Sunday, the President called me, I don't know the date but I think it was in the latter part of the month. The President had received some information about the CIA's involvement in a lot of aspects of the Watergate that were very peculiar. He asked me if I knew anything about it. I told him that I had been briefed at length by Senator Baker, that I found the whole matter incredible, and as a matter of fact, found it very serious; that there were just too many unexplained connections between the CIA, and the people involved in Watergate, evidence of advance knowledge on the part of the CIA of Watergate, certainly of the Ellsberg matter. I recommend to the President that it be thoroughly investigated and that he make it public.

He expressed some concerns about doing so. He said that the public will take it as, might consider if I do it that it's a red herring, plus the fact that we can't do anything at the moment that will compromise the

foreign policy capacities or the military defense capacity of the country, that that would be wrong to drag that into the impeachment controversy, or the controversy over Watergate.

We really exchanged information about things he had already been advised of and things that I had been advised of by Senator Baker, most of which are now part of Senator Baker's committee report which he issued, I think, the week before last.

Mr. WALDIE. Mr. Chairman.

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. Would counsel ask him the date of the briefing by Senator Baker?

Mr. COLSON. It was the middle of December, Mr. Waldie.

Mr. JENNER. 1973?

Mr. COLSON. Yes, sir.

Mr. JENNER. Does that suffice, Mr. Waldie?

Mr. WALDIE. Yes, thank you.

Mr. JENNER. Have you given us the substance, then, of that conversation as you now recall it?

Mr. COLSON. I had a long meeting with—that same day with General Haig at his office—

Mr. JENNER. Well, I mean the conversation with the President.

Mr. COLSON. Yes, sir.

Mr. JENNER. Perhaps this may help refresh your recollection. Did the President express any hope on his part that you and Mr. Baker would work on getting the CIA story out?

Mr. COLSON. No, he said he hoped that Senator Baker would continue his investigation, that that was a more appropriate way to do it than to have the White House involved.

Mr. JENNER. All right. Now, you began to refer to a conversation or a meeting following your conversation with the President. Won't you tell us about that, please?

Mr. COLSON. I met at length that same Sunday afternoon with General Haig at his home, in which we again reviewed all the facts as we knew them, all the kind of unexplained connections between the CIA and the Watergate and the personalities involved in the Watergate and the Hughes Tool Co. The phones that were bugged at the DNC were people connected with Hughes in one way or another. There were just many things that didn't make sense. At the conclusion of it, Haig received a call from the President and said to me that the President was very firm in his belief that we could not do anything that would hurt the foreign policy of the United States and we certainly had to be very careful not to do that, certainly had to be careful to get the facts first. I got the impression that the White House would do nothing about it, which in fact, the White House did not.

Mr. JENNER. Mr. Colson, how did the meeting with General Haig—how was that arranged or how did it come about?

Mr. COLSON. General Haig called me shortly after I talked to the President and asked me if I would drop by and visit him.

Mr. JENNER. And you did drop by to visit him?

Mr. COLSON. Yes, sir.

Mr. JENNER. Where was he?

Mr. COLSON. At his home in Spring Valley.

Mr. JENNER. Now, was there anything said during your meeting with General Haig to the effect that the President had decided against involving the CIA because of possible adverse effect on the country?

Mr. COLSON. Yes, I think that was the general thrust of what I said was General Haig's closing statement to me on that Sunday afternoon.

Mr. JENNER. General Haig's closing statement of what the President had determined?

Mr. COLSON. I remember very precisely what General Haig said. He said, Chuck, we may do down and be impeached, but we simply can't drag down the Government of the United States with us.

Mr. JENNER. All right. Have you exhausted recollection of that conversation now?

Mr. COLSON. Yes, sir.

Mr. JENNER. All right, turning your attention to March 3, 1974, did you have a conversation with the—

Ms. HOLTZMAN. Mr. Chairman, point of clarification.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I wonder if counsel would ask the witness if when he was referring to the Hughes Tool Co. in this meeting with Mr. Haig, whether he was referring to the so-called \$100,000 payment that came to Mr. Rebozo as well?

Mr. JENNER. Would you respond to that question, Mr. Colson?

Mr. COLSON. No, we weren't talking about that at all. We were talking about the fact that Larry O'Brien had been on a Hughes' retainer, that Spencer Oliver, Jr.'s father worked for the Hughes Tool Co., that those were the two phones bugged at the DNC, that Mr. Bennett was head of the Mullen Co., that the Mullen Co. employed Mr. Hunt, that Mr. Hunt was apparently engaged in those two telephone taps and Mr. Hunt—Mr. Bennett was now representing the Hughes Tool Co., the new interest that had just taken it over. That was the thrust of it.

Mr. JENNER. Directing your attention now to March 3, 1974.

You have that date in mind, sir? March 3, 1974.

Mr. COLSON. Yes.

The President called me, I was at home, it was Sunday afternoon, March 3. He expressed regrets over the fact that I had just been included in the Watergate indictment.

Mr. JENNER. That had occurred 2 days previously?

Mr. COLSON. On March 1.

We discussed that for a while. It was a personal call. He was feeling badly about that.

During the course of it, he said, I was surprised to see in the indictment that the allegation that the last payment to Bittman and Hunt was made on March 21. He said, I had understood from Fred Buzhardt that you had found out that the last payment was made before that. And he said, I had understood that to be Bittman's testimony and Hunt's testimony.

I assured him that that was my understanding and that I was equally surprised.

The President said, I am positive it was not made after the 21st—or was not made—it was made before the 21st. And he asked me if I would go back to Bittman and check whether Bittman had changed his story or whether we had misunderstood him when Mr. Shapiro

and I first went to him, to Mr. Bittman. I told the President I would. I talked to Mr. Shapiro, both of us tried to reach Mr. Bittman unsuccessfully.

The President called again later in the afternoon to ask whether we had reached Mr. Bittman. I told him we had not but we were still trying.

We did not reach Mr. Bittman until the next day.

Mr. Bittman the next day said he now was not sure when the payment was made. In fact, he said he didn't think he had ever told us it was made before the 21st, but that in any event, he could not establish the date. I so advised General Haig so that he could tell the President the next day.

Mr. OWENS. Mr. Chairman.

The CHAIRMAN. Mr. Owens.

Mr. OWENS. A point of clarification.

I had understood, counsel, I had understood Mr. Colson to say that he had two conversations in January and he reported only one. Was I mistaken?

Mr. JENNER. Did you have two conversations?

Mr. COLSON. I don't recall precisely how many. I think there were a couple. One was very personal. It had nothing to do with, really, Watergate.

Mr. JENNER. That is with Mr. Bittman.

Mr. COLSON. No, I think Mr. Owens' questions was with the President.

Mr. JENNER. Oh, I'm sorry.

Does that clarify, Mr. Owens?

Mr. OWENS. Yes.

Mr. COLSON. I think there were other conversations, Mr. Owens, but they didn't relate to anything substantive that we have been able to develop with the staff.

Mr. JENNER. Was anything said during the course of your conversation with President Nixon respecting the subject matter or the possibility of Mr. Bittman had escaped indictment?

Mr. COLSON. Well, either the President or I raised some questions, because I had expected—I guess I had expected Mr. Bittman would be involved and it was a natural question, whether maybe changing his testimony had spared him being included in the indictment.

Mr. JENNER. Changing his testimony with respect to what?

Mr. COLSON. To the date of the last payment.

Mr. JENNER. And both you and the President discussed that?

Mr. COLSON. Yes, sir.

Mr. JENNER. And you can't recall now whether the President raised that or you did?

Mr. COLSON. I think the President may have raised it. I think the President did raise it.

Mr. JENNER. All right. One final question.

Directing your attention to June 4, 1974, did you have a conversation with President Nixon on that day?

Mr. COLSON. Yes, sir.

Mr. JENNER. Have you had a conversation with President Nixon since that day?

Mr. COLSON. No.

Mr. JENNER. Was that a telephone conversation?

Mr. COLSON. Yes, sir.

Mr. JENNER. Who called whom?

Mr. COLSON. The President called me.

Mr. JENNER. Where were you?

Mr. COLSON. At home.

Mr. JENNER. What time of day or night was it?

Mr. COLSON. Oh, it was sometime in the evening, I think.

Mr. JENNER. All right. What was said?

Mr. COLSON. I think he just—he said tell your boys they can be proud of you, you have done what you think is right. I feel very badly for you. Hope your family is taking it all right, and wish you the best of luck.

I told the President that I appreciated that, that I had done what I thought I had to do. It was a matter of conscience with me to have pleaded as I did the day before.

Mr. JENNER. And you had pleaded the day before to guilty to obstruction of justice as read to you this morning by Mr. Doar.

Mr. COLSON. Yes, sir. I told the President that I hoped it would free me to tell the truth as I knew it, which I intended to do.

Mr. JENNER. Now, Mr. Colson, directing your attention to a different subject matter—

The CHAIRMAN. We will break now for an hour. It will be 8 o'clock. We will resume at 8 o'clock.

Mr. DONOHUE. Mr. Chairman, may I inquire, how long does Mr. St. Clair intend to examine?

The CHAIRMAN. Mr. St. Clair?

Mr. ST. CLAIR. May I respond, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. ST. CLAIR. If we were to stop now, I would say another hour and a half. But I understand Mr. Jenner has another half hour to go, so I think it would be realistic to say 2 hours, but not much more.

Mr. DONOHUE. Is it the plan of the chairman to have the committee members question Mr. Colson tonight?

The CHAIRMAN. That is the present plan of the chairman.

[Recess.]

EVENING SESSION

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. Thank you, Mr. Chairman.

The CHAIRMAN. I presume, Mr. Jenner, that your estimate still holds?

Mr. JENNER. Twenty-five minutes. Mr. Chairman, Mr. Colson has asked me if he could remove his jacket.

The CHAIRMAN. Please do. Make yourself comfortable.

Mr. JENNER. Mr. Colson, drawing your attention to the forepart of July 1930, did you have a meeting—1970, I'm sorry. Did you have a meeting with Mr. David Parr, an official of AMPI?

Mr. COLSON. In July of 1970 I had more than one meeting with Mr. David Parr, and Mr. Harold Nelson of AMPI, the milk producers.

Mr. JENNER. This is a conversation, as I recall, or conference when Mr. Parr was complaining about the fact that contribution committees had not been set up. Do you recall that?

Mr. COLSON. Yes.

Mr. JENNER. I am trying to fix the time, does that help you fix the time better as to when in the early part of July this took place?

Mr. COLSON. I think the calendar shows the first meeting I had with Mr. Parr was July 8, 1970.

Mr. JENNER. OK. Do you recall that occasion, sir?

Mr. COLSON. Well, I remember, yes.

Mr. JENNER. All right now, tell us what led up to that, what the occasion was, what you said, what he said.

Mr. COLSON. I have been asked by Mr. Gleason, who is an assistant of Harry Dent of the White House staff—

Mr. JENNER. What staff, sir?

Mr. COLSON. The White House staff if I would meet with the milk producers. They apparently had been visiting with Mr. Dent and Mr. Gleason but wanted to talk to someone, wanted to deal with someone else in the White House. I was the logical fellow since my original assignment was to deal without outside groups.

At Mr. Gleason's behest I saw the milk producers' representatives, Messrs. Parr and Nelson. I think my first meeting with them, according to my calendar at least, was July 8.

Mr. JENNER. And where was it?

Mr. COLSON. In my office in the Executive Office Building.

Mr. JENNER. And who was present?

Mr. COLSON. Mr. Parr and Mr. Nelson and myself.

Mr. JENNER. All right.

Mr. COLSON. Mr. Chotiner may have been present. I am not sure. They came in. The principle points they made were first that they had been trying very hard to make contributions to various Republican Senate and congressional campaigns in the 1970 election. Mr. Parr complained. He said we have been asking for months for the names of committees to which we can contribute. Nobody around here will give us names. We have never had this problem with other administrations. They are always glad to take our money. There is something wrong with you guys. I referred them to Kalmbach and told them they should deal with Mr. Kalmbach who I was certain would be happy to arrange for the names of committees to which they could contribute, although that didn't happen because it went for 2 or 3 months that Mr. Parr would occasionally come by and see me with the same complaint.

At one of the early meetings, Mr. Jenner, Mr. Parr said that while they had always contributed in the past to the Democratic candidates for President, that this time the milk producers cooperative had made the decision that they wanted to devote all of their resources in 1972 to President Nixon's reelection, and that they were going to put their full commitment and full support behind the President, and all of their fundraising would be on behalf of President Nixon. I said that was just dandy and I then asked them, Mr. Parr, I don't think this was the first meeting, it maybe was the second or third, and Mr. Parr explained to me very proudly how they set up an organization patterned identically after COPE of the AFL-CIO and he said we are finally going to get into the big leagues. We are now going to raise money the same way the labor unions have. We have a checkoff system for all of the farmers, and it is all going to go to President Nixon's reelection. I said

it sounds like a very ingenious plan. I don't know of any other like it except for COPE. How much do you think you will raise? And Mr. Parr said, \$1 million, perhaps maybe \$2 million and I was rather taken aback by the size of that. And I reached on my desk and took a yellow pad and wrote down David Parr, the date, \$2 million, 1972 campaign. I kind of laughed about it and Mr. Parr said that was—he was from Arkansas and he said that's what I get for dealing with a Yankee trader. You give a guy two figures, 1 million and 2 million and he picks the higher of the two, 2 million. He kind of joked about it but I think I took it halfway seriously and I think he intended it seriously.

Mr. JENNER. Did you take notes during the course of that meeting?

Mr. COLSON. Yes, I did.

Mr. JENNER. And what did you do, if anything, with them?

Mr. COLSON. Some months later, I, or sometime later, I don't know how long it was I think a fair amount of time, I sent the notes, plus a cover, with a cover memorandum to Bob Haldeman and I said you should be aware that the American Milk Producers, whatever it is, has committed all of their fundraising apparatus to the President's 1972 reelection campaign, and here are the notes I took with Mr. Parr of the Milk Producers. You ought to have these in case I get run over by a truck some night. And I just made Mr. Haldeman aware that they had made that kind of a pledge. In that same meeting, Mr. Jenner, either Mr. Chotiner or myself, or both of us, I remember Mr. Chotiner doing it, when they were talking about such a large contribution I remember Mr. Chotiner said don't expect any quid pro quos. Don't come around here and flaunt the fact that you are a big contributor and expect to get anything in return. We can't talk to you if you try to make it a quid pro quo.

Mr. MAYNE. Mr. Chairman, I wonder if the time of that statement could be fixed in the record?

Mr. JENNER. Is it the absence of a quid pro quo, sir?

Mr. MAYNE. Yes, the statement that the witness has just referred to. When did that take place?

Mr. JENNER. Fix that as best you can, sir.

Mr. COLSON. I would have to say some time in July or August of 1970 at one of the first two or three meetings that I had with Mr. Parr and Mr. Nelson of the Milk Producers.

Mr. JENNER. Now, did you subsequently have a talk with Mr. Haldeman about the \$2 million pledge or the \$2 million figure or however you want to describe it?

Mr. COLSON. Yes, I did. It was some time later.

Mr. JENNER. Fix it as best you can as to time.

Mr. COLSON. Well, I don't think I can. It was several months I think after they had originally come in, maybe 3 or 4 months, perhaps in the fall of 1970. I happened to be with Mr. Haldeman reviewing things. I think I have just sent him that note that I referred to earlier and I simply said you should know, Bob, that the milk producers have said that they want to devote all of their resources to reelecting the President. They can raise \$1 to \$2 million from what they have told me and I thought you should be aware of it. Haldeman said I hope they are not expecting anything in return. These guys are great BS artists and you will never be able to satisfy them and they will keep

wanting more and we can never implement policies they will be happy with. So, be sure they don't expect anything for it.

Mr. MAYNE. Mr. Chairman, what was the time of that conversation?

Mr. COLSON. I really can't be precise. It took place, my recollection is, some months after they originally came in. I guess I would have to say sometime during the fall of 1970.

Mr. JENNER. All right now, directing your attention to November 3, 1970, did an exchange of memorandums—excuse me. Mr. Nussbaum has directed my attention to another item in connection with the conversation you had with Mr. Chotiner about which you have testified in which the lack of quid pro quo was mentioned. Now, did you have a conversation with Mr. Chotiner before his death?

Mr. COLSON. Yes, I did.

Mr. JENNER. In which he remembered this?

Mr. COLSON. I did have a conversation with Mr. Chotiner before his death and he did not remember being in that meeting.

Mr. JENNER. Now, please be as precise as you possibly can as to what you mean by that meeting.

Mr. COLSON. The meeting I am referring to in which both the \$2 million pledge was talked about and the quid pro caution was expressed in my recollection by Mr. Chotiner.

Mr. JENNER. What was the occasion of your discussing that with Mr. Chotiner?

Mr. COLSON. I think some time last November I was trying to refresh my recollection on contacts.

Mr. JENNER. Excuse me, you say last November. You mean 1973?

Mr. COLSON. Yes, 1973.

Mr. JENNER. All right. Go ahead, sir.

Mr. COLSON. Trying to refresh my recollection of certain events and meetings just so I would be as accurate as possible in my own testimony.

Mr. JENNER. All right. Directing your attention to November 3, 1970, do you recall an occasion when you transmitted a memorandum to Mr. Chotiner?

Mr. COLSON. If you will let me see it I will try to.

Mr. JENNER. I beg your pardon.

Mr. COLSON. I have seen this memorandum, yes.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, Mr. Colson has in his hand a memorandum from Charles Colson to Murray Chotiner dated November 3, 1970, which you will find in your book, tab number 10.1.¹ And you do have a copy of the memorandum which we delivered to you this morning. Would you proceed, Mr. Colson? Tell the circumstances of your sending the memorandum to Mr. Chotiner.

[The memorandum referred to above was submitted for the record, and follows:]

¹ See HJC, "Statement of Information," book VI, pt. 1, item 10.1, p. 214.

November 3, 1970

MEMORANDUM FOR MURRAY CHOTINER

Would you please check with your friend, Harrison, and tell him if he wants to play both sides, that's one game; if he wants to play our side, it is entirely different. This will be a good way for you to condition him before we put the screws to him on imports, which we are about to do.

001325

Charles W. Colson

cc: Henry Cashen

Dairy Fund Aids 3 Unopposed in Election

By James R. Polk
Associated Press

A plush political fund for milk producers has made \$13,000 in campaign contributions to the chairman of the House Agriculture Committee and two other farm congressmen who are unopposed for re-election.

The chairman, Rep. W. R. (Bob) Poage (D-Tex.), unopposed in Tuesday's election after 34 years in Congress, received a \$5,000 contribution from the milk group, the Trust for Agricultural Political Education.

Two freshman members of the Agriculture Committee who also have no races this year, Rep. Edward Jones (D-Tenn.) and Rep. Bill Alexander (D-Ark.) got other sizable contributions.

\$400,000 in Fund

Milk is buoyed by government price supports. The Trust for Agricultural Political Education is a rich new campaign fund overflowing with \$400,000 in donations from dairy farmers around the nation.

About half of the trust's campaign money has gone either to top Senate races in rural states or to elections involving House Agriculture Committee members.

Poage is the second unopposed House chairman benefiting from special interest groups this year. Funds for two seamen's unions steered \$3,900 through a hidden money-raising body set up in Washington for Rep. Edward A. Garmatz (D-Md.), chairman of the House Merchant Marine Committee.

Poage listed the \$5,000 in his pre-election report filed with Congress this week and indicated the money has been left on deposit in a special campaign bank account in Waco, Tex.

The trust gave \$2,000 to Jones this summer and a total of \$6,000 to Alexander over the past year and a half. All three committee members were unopposed in their summer primaries as well as Tuesday's general elections.

Set Up Last Year

The campaign fund, based in San Antonio, Tex., was set up last year by officials tied to Associated Milk Producers Inc. That organization's controller, Robert O. Isham, is treasurer and sole official of the trust.

Isham said the trust makes its contributions to farm congressmen on the basis of need. "And," he said, when asked about the unopposed members, "I've never talked to a politician who didn't need money."

Jones, a dairy farmer in his first term from west Tennessee, said he is using the money for ads in weekly newspapers, bumper stickers, posters, and travel.

"I'm trying to keep my name before the public. You run every day—not just once every two years," Jones said. Alexander, whose own report to Congress did not list any campaign contributions or spending this year, could not be reached immediately for comment.

For Future Use

The Texas campaign treasurer for Poage said the \$5,000 for the chairman would be kept in the separate Waco bank account for use in any election race in the future.

"It's held there strictly for that Bob Poage is very careful and conscientious—and even demanding about a thing like that," said Carlton Smith, a Waco lawyer.

The trust gave its \$3,600 to Poage's campaign at the start of this year after shelling out a total of \$6,700 for a dinner honoring the House chairman last fall and another \$4,700 for a joint testimonial last winter for Poage and Rep. Wright Patman (D-Tex.).

The \$5,000 for Poage was as large as the trust's contributions to three other Agriculture Committee members

locked in close races this fall: Rep. Watkins Abbitt (D-Va.), John Melcher (D-Mont.) and Graham Purcell (D-Tex.).

Challengers Aided

Not all money went to incumbents. The trust gave \$5,000 to James R. Jones, a former White House aide in Tulsa, Okla., trying to unseat the top-ranking Republican on the Agriculture Committee, Rep. Page Belcher. But it also gave \$5,000 to Belcher's re-election campaign.

At the same time, the trust gave another \$5,000 each to GOP challengers trying to capture Senate seats held by Democrats in Florida, Indiana, New Jersey, North Dakota, Tennessee, Utah, and Wyoming.

But the trust hedged some of its bets.

In addition to \$5,000 for the Republican in Indiana, it gave \$2,500 to incumbent Democratic Sen. Vance Hartke. It also made a double donation in Wyoming, with \$2,000 for incumbent Sen. Gale McGee. Isham explained: "We hope to have a friend no matter which one is up there in Washington."

Mr. COLSON. Well, there was an article in the Washington Post, which is also attached to this exhibit, indicating that the dairy the milk cooperative, AMPI, was contributing large amounts to Democrats as well as Republicans. I knew at the time that we were very soon going to have a decision on a certain tariff commission recommendation that would be adverse to the milk producers, and I knew they would be very unhappy about it. And I sent this memo to Chotiner saying "check with your friend, Harrison, and tell him if he wants to play both sides, that's one game; if he wants to play our side, it is entirely different. This will be a good way for you to condition him before we put the screws to him on imports, which we are about to do." We were about to put the screws on him on imports regardless of what they did with contributions, but I thought that would be a nice way to soften him up for the blow.

Mr. DENNIS. Mr. Chairman, are we going to make this a Colson exhibit something or other?

The CHAIRMAN. It is already in our presentation.

Mr. JENNER. We can do so, Mr. Dennis, but inasmuch as it is in the book I decided not to do it in order to save time. But if you wish me to give it an exhibit number, I would be pleased to do so.

Mr. DENNIS. It's up to you.

Mr. JENNER. What was your state of mind, Mr. Colson, with respect to whether Mr. Parr's representations on behalf of AMPI were serious, or did you take them seriously?

Mr. COLSON. I shared Mr. Haldeman's characterization of both—well, of Mr. Parr. On the other hand, I realized that they had a very effective method of fundraising, I knew that they were raising substantial amounts and had no reason to believe that they would not contribute to the President's re-election in the amount they said they would.

Mr. JENNER. Directing your attention, Mr. Colson, to December 1970, do you recall a letter of Mr. Hillings dated December 16, 1970?

Mr. COLSON. Yes, sir.

Mr. JENNER. Mr. Chairman and ladies and gentleman of the committee, the copy of that letter was furnished to you this morning, but it appears in the books at tab 12.1¹ and therefore, I won't give it an exhibit number.

[The letter referred to above was submitted for the record and follows:]

¹ See HJC, "Statement of Information," book VI, pt. 1, item 12.1, p. 240.

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OF COUNSEL
 PATRICK J. MILLINGS
 WM. MONTGOMERY SMITH

December 16, 1970

The Honorable Richard Nixon
 The White House
 Washington, D. C.

Re: \$22 Tariff Commission (Milk) Recommendations
Presidential Proclamation

Dear Mr. President:

This letter discusses a matter of some delicacy and of significant political impact.

Since January 1 my Washington partner Marion Harrison (one of your 1968 Virginia Co-Chairmen) and I have represented Associated Milk Producers, Inc. ("AMPI"). At the White House in September you privately met AMPI's two key leaders, Harold Nelson and Dave Parr. You spoke by telephone from the beach at San Clemente to Secretary Hardin and to Harold Nelson during AMPI's annual convention in Chicago Labor Day weekend. You told Harold of your intent personally to address AMPI's next annual convention (a gathering of almost 30,000 dairy farmers and their families).

AMPI has followed our advice explicitly and will do so in the future. AMPI contributed about \$135,000.00 to Republican candidates in the 1970 election. We are now working with Tom Evans and Herb Kalmbach in setting up appropriate channels for AMPI to contribute \$2 million for your re-election. AMPI also is funding a special project.

On September 21 the Tariff Commission recommended to you, after it did a study you requested in May, four specific quotas for four specific dairy products. These recommendations are well documented and by now are well known in the dairy and related industries. No Presidential Proclamation has been issued.

The problem is this. The dairy industry cannot understand why these recommendations were not implemented

- 2 -

very quickly. The longest the Democrats ever took to implement a Tariff Commission dairy recommendation was 16 days. On one occasion, President Johnson even imposed quotas before he received the Tariff Commission's recommendations!

The overall parity ratio is at its lowest since December 1933. Farmers generally are unhappy with the economy. You know our farmbelt losses in the election.

The Government saves money (by saving price support payments) and the farmer makes money when the recommended quotas are imposed. The products are all "evasion" products - that is, products which historically were not imported but which started to be imported only after quotas were imposed on other products.

The dairy and related industries have great faith in your personal leadership. At the same time, they are shaken by the economy. The right kind of Proclamation issued quickly would dramatize your personal interest in a large segment of agriculture.

This problem is bogged down within the White House. It is a victim of the bureaucracy - the Trade Bill people, the National Security Council people, the domestic people. It has been studied and restudied. It is not moving.

We write you both as advocates and as supporters. The time is ripe politically and economically to impose the recommended quotas. Secretary Hardin, the Tariff Commission and the dairy industry all support this. All that is necessary is a simple Proclamation implementing the four specific Tariff Commission recommendations.

(We attach a more detailed Memorandum. The subject is quite interesting if you have time for it.)

Respectfully,



PATRICK J. HILLINGS

PJH:ek

Enclosure

Mr. JENNER. Now, that's the exhibit is it not, which in the third full paragraph it reads:

AMPI has followed our advice explicitly and will do so in the future. AMPI contributed about \$135,000 to Republican candidates in the 1970 election. We are now working with Tom Evans and Herb Kalmbach in setting up appropriate channels for AMPI to contribute \$2 million for your reelection. AMPI also is funding a special project.

Mr. COLSON. May I see a copy of that?

Mr. JENNER. Would you glance at that letter please?

Mr. COLSON. Yes. I remember the letter very well.

Mr. JENNER. You have seen it before?

Mr. COLSON. Yes, sir.

Mr. JENNER. It is addressed to President Nixon?

Mr. COLSON. Correct.

Mr. JENNER. How did it come to your attention?

Mr. COLSON. Mr. Hillings, Pat Hillings who signed this letter—

Mr. JENNER. And identify him please.

Mr. COLSON. Mr. Patrick J. Hillings, a member of the firm I guess of Reeves & Harrison.

Mr. JENNER. That's a law firm here in Washington?

Mr. COLSON. That's correct.

Mr. JENNER. Whom did they represent in this connection?

Mr. COLSON. The milk producers.

Mr. JENNER. The AMPI?

Mr. COLSON. Correct.

Mr. JENNER. Thank you. Proceed.

Mr. COLSON. Mr. Hillings, who was a former Republican Member of Congress from California, who knew the President quite well, prepared this letter, I guess delivered it to Mr. Roger Johnson who was on the White House staff.

Mr. Johnson sent it to Mr. Haldeman. I think you have a cover letter from Johnson to Haldeman saying that Hillings had dropped it off with him and it was addressed to the President. Johnson was sending it to Haldeman to go to the President. It bounced around Bob Haldeman's staff system for a few days, several days I think and eventually came to me with a note on it from Larry Higby saying, "What shall we do with the attached"? It had not gone to the President. It was being routed through Mr. Haldeman's office, although it was Mr. Hillings' intent that it should go to the President.

When I read the letter, I—

Mr. JENNER. Excuse me, Mr. Colson, Mr. Chairman, ladies and gentlemen of the committee, we do not have these what are typically called bucking memorandums that Mr. Colson is speaking of, so would you describe those?

Mr. COLSON. Maybe the special prosecutor had—I don't, don't know. I thought we saw it in your book, but maybe not.

Mr. COHEN. Mr. Chairman, point of clarification. Did you say this letter was hand delivered?

Mr. COLSON. It was hand delivered by Hillings to Roger Johnson who is a special assistant to the President.

Mr. COHEN. When you say it's dated the 16th of December, then you saw it a couple of days later, about December 18?

Mr. COLSON. No, I saw it seems to me it was near the end of the year and I mean, I think it had been around the White House for oh, a week or 10 days when I saw it. I guess we saw it maybe at the special prosecutor's office but I will tell you there was a cover memo on top of this from Roger Johnson to Bob Haldeman saying that Hillings has given this and asked me to get it to the President. And then there was a memo from John Brown, who was one of the staff people for Haldeman, to Higby and from Higby to Brown and eventually Higby sent it over to me and said what shall we do with this. I read it and hit the roof, and my secretary recalls my telling her to call Hillings on the phone and tell him to get his fanny back to Washington. He was then in California and come in and see me. I met with Mr. Hillings either late in December or early January.

Mr. JENNER. That's late December 1970 or early January 1971?

Mr. COLSON. That's right. Mr. Henry Cashen, who is one of my assistants, was with me.

Mr. JENNER. Where were you?

Mr. COLSON. In my office. His recollection is more vivid than mine. He says that I really chewed Hillings out and told him never to come back to the White House. That's about the way I remembered it. I offered him the opportunity to withdraw the letter. I told him if he didn't want to do that, I would send it over to the Department of Justice. I considered it heavyhanded, in bad taste, and probably an attempted bribe, and that as far as I was concerned I didn't want to have anything further to do with the milk producers or certainly with Mr. Hillings or his law firm.

Mr. Hillings said he would withdraw the letter. I did, however, retain the original and gave it to John Dean.

Mr. JENNER. When did you give it to John Dean?

Mr. COLSON. I think at the time that Mr. Dean was pulling together all of the documents for the *Nader v. Butz* suit.

Mr. JENNER. All right. Now, referring—have you afforded the committee your best recollection with respect to that meeting and that incident?

Mr. COLSON. Yes. I think there was another memorandum which the committee has of December 18 in which I told Chotiner I don't want to deal with these guys any more, which wasn't as a result of this letter, but was a result of calls they were making to my office, being very heavyhanded. The great difficulty with the milk producers was no matter whether you told them that they weren't going to get any special consideration for their contributions or not, seemed to make no difference. They kept coming back and demanding things and say that after all, we are contributing all of this money. You would get mad at them and tell them they can't do that, they can't talk that way. They would apologize. You would cool down and then you would see them a month later and they would do the same damn thing.

Mr. JENNER. Mr. Colson, we don't happen to have the memorandum to which you refer, December 18. It's 13.1 in the tabs in book IV.¹

Mr. MAYNE. Mr. Chairman, a point of clarification.

The CHAIRMAN. Mr. Mayne.

¹ See HJC, "Statement of Information," book VI, pt. 1, item 13.1, p. 260.

Mr. MAYNE. I would like to have counsel inquire of the White House whether when he refers to the milk producers he is referring only to AMPI or to AMPI and the other two political milk funds?

Mr. JENNER. Would you please explain that, Mr. Colson?

Mr. COLSON. I only dealt with AMPI. That's the only group I was familiar with.

Mr. MAYNE. Thank you.

Mr. COLSON. I had in the campaign dealt with other groups, Mid-America, but this was the only one I was dealing with at that time.

Mr. MAYNE. Thank you.

Mr. JENNER. Have you now, after further reflection, given us all you know or now recall about this incident and these meetings and that letter?

Mr. COLSON. Yes. The only other thing I would add, Mr. Jenner, is that I did tell Hillings I didn't want to deal with him or his people any more. After Chotiner went over to that law firm, which Murray Chotiner did a few months later, I again began to deal with him which I probably should not have, in terms of—

Mr. JENNER. I want to stay with this particular incident. And the memorandum, December 18, to which you refer is your memorandum to Mr. Chotiner?

Mr. COLSON. Yes, sir.

Mr. JENNER. I notice the sentence in the second full paragraph, next to the last sentence reads: "They have also refused to help recently in a matter of great importance to us. In sum, they are very, very bad news." What is your recollection as to what the matter of great importance was?

Mr. COLSON. I don't know. I think we went through that with your staff when we were going through the interview process and I am not sure I could remember what that was.

Mr. JENNER. And you couldn't recall?

Mr. COLSON. No.

Mr. JENNER. Thank you.

Directing your attention to late 1970, that would be in December, presumably, did you have a conversation with the President, President Nixon, respecting Murray Chotiner?

Mr. COLSON. It was some time, the conversation I had with the President was some time shortly after the 1970 election.

Mr. JENNER. All right, that would be possibly in November rather than December, sir?

Mr. COLSON. It would have been in either months, yes, sir.

Mr. JENNER. Now, where did that conversation take place?

Mr. COLSON. I don't really know.

Mr. JENNER. Well, was it a telephone conversation, or a person-to-person conversation?

Mr. COLSON. I just don't know.

Mr. JENNER. All right, do you recall the subject matter of the conversation?

Mr. COLSON. Well, the conversation I think you are referring to, Mr. Jenner, was one in which the President asked if I would help Murray Chotiner find a law firm to which he could move in Washington, to which he could, which he could join in Washington since I knew most of the firms in town.

Mr. JENNER. Do you remember any more of that conversation?

Mr. COLSON. No. That was the thrust of what the President asked me to do.

Mr. JENNER. What was your response?

Mr. COLSON. That I would help, and I did try to help.

Mr. JENNER. All right, tell us what you did?

Mr. COLSON. I called several law firms that I knew and asked if they might like to interview. Murray Reeves & Harrison was one of the firms and I thought a particularly suitable one because they had shown themselves to be rather inept in their dealings with the White House and I thought Chotiner would be a help for them.

Mr. JENNER. With whom you deal or confer at Reeves & Harrison?

Mr. COLSON. With Marion Harrison.

Mr. JENNER. And tell us what that conversation was, the substance and what you said and he said?

Mr. COLSON. The substance was simply I asked him whether he would be interested in talking to Murray Chotiner about Chotiner joining his law firm.

Mr. JENNER. Was there anything said about the Reeves & Harrison retainer to AMPI?

Mr. COLSON. I think in the subsequent conversation Harrison indicated that they would be interested in Murray, and they thought that the milk producers would increase their retainer in order to make it financially possible to take Murray in.

Mr. JENNER. Now, you say subsequent conversation. The committee is interested in each instance when you had a conference to try and fix it as best you can as to time.

Mr. COLSON. I just don't really—it was some time, December, January of 19—December of 1970, January 1971.

Mr. JENNER. OK, now, did Mr. Chotiner eventually leave the White House and join Reeves & Harrison?

Mr. COLSON. He became of counsel to the firm of Reeves & Harrison some time I think early March of 1971.

Mr. JENNER. All right, direct your attention to February 2, 1971, do you recall preparing a memorandum to Mr. Higby?

Mr. COLSON. Yes, I do.

[The memorandum referred to above was submitted for the record and follows:]

*B Colson*THE WHITE HOUSE
WASHINGTONE. ES ONLY

February 2, 1971

OK
LH

MEMORANDUM FOR LARRY HIGBY

As I understand it, we owe the National Committee approximately \$150,000 originally committed from Mulcahy. My feeling, as you know, is that we should not go back to Mulcahy.

The Milk Producers are prepared to buy 10 tables to the Committee Dinner (\$100,000). The National Committee could be advised in advance that this is part of the money we owe. The only trick would be to be certain that we got credit for this against the sums they expect us to raise.

Please let me know.

00176*

Lucas
Charles W. Colson

Mr. JENNER. All right. And Mr. Chairman, ladies and gentlemen of the committee that memorandum is in book 6, item or tab. 17.1,¹ and the subject matter of that memorandum was what, Mr. Colson?

Mr. COLSON. Well, it is a little complicated. I will do my best.

Mr. JENNER. All right. Would you tell the circumstances which led you to prepare the memorandum, and tell us what you did with it, and if you had a conversation with Mr. Higby would you please relate it, giving time, place, and persons present?

Mr. COLSON. Well, during 1970 the White House budget at the Republican National Committee had been overdrawn by the amount of \$150,000. The Republican National Committee maintained a budget for White House incurred expenditures, mailings, things that the White House wanted done that it didn't want to use Federal funds to pay for. All mailings from the White House were paid for by the Republican National Committee. Herb Klein's fact sheets, and so forth. We have overdrawn the account, and at the end of the year, Bob Haldeman, I think asked me if Chuck Mulcahy, who had been a big contributor to the President and a great friend would make up the deficit with a contribution to the Republican National Committee.

Mr. JENNER. Would you identify Mr. Mulcahy a little more as to business and association?

Mr. COLSON. He's, I think he's with the Pfizer Co. or retired from it. He was an independent entrepreneur, lives in New York and in Ireland.

Mr. JENNER. I think that's enough, Mr. Colson. Proceed.

Mr. COLSON. Sometime in January the milk producers, I would assume through Harrison, I don't know, indicated that they wanted to buy 10 tables to the Republican National Committee dinner in March of that year. I think they called my office and asked me whether that would be something we would like them to do.

I told them that it would be fine. It occurred to me that that money, however, could be used to pay back the White House debt of \$150,000 and that's what this memo was intended to suggest to Higby or Haldeman.

Mr. JENNER. What was the gross price per table?

Mr. COLSON. Well, 10 tables for \$100,000 would be \$10,000 a table.

Mr. JENNER. Well, I didn't realize that it's 10 tables, which would amount to \$100,000. Is that correct?

Mr. COLSON. That's what it says.

Mr. JENNER. Thank you. That's what your memorandum says. Go ahead. Proceed.

Mr. COLSON. That's it.

Mr. JENNER. All right. The meeting, that dinner was scheduled for when?

Mr. COLSON. March 24, 1971.

Mr. JENNER. OK. Now, we will turn the March 1971 to a period a few days before the dinner was held. Was there an occasion when you began receiving some calls for Mr. Lee Nunn?

Mr. COLSON. Lee Nunn.

Mr. JENNER. Would you identify him, please?

¹ See HJC, "Statement of Information," book VI, pt. 1, item 17.1, p. 318.

Mr. COLSON. He was running the dinner, as I recall, or the committee sponsoring the dinner.

Mr. JENNER. The Republican National Committee?

Mr. COLSON. The same dinner that we are talking about.

Mr. JENNER. Yes, sir.

Mr. COLSON. I told Lee Nunn the milk producers would be taking 10 tables, that the money was to be credited to the Republican National Committee to the White House account. The milk producers apparently also had told Mr. Nunn that they were taking the tables but as the dinner approached they had not purchased the tables, which was causing some distress to Mr. Nunn.

Mr. JENNER. And did they ever purchase the 10 tables?

Mr. COLSON. I don't know for a fact that they did. I believe so. They purchased several tables. I don't know whether it was 10.

Mr. JENNER. All right. Have you told us all about that incident that you can recall?

Mr. COLSON. Yes, sir.

Mr. JENNER. Directing your attention to March 23, 1971, do you recall having a conversation with Mr. Chotiner respecting the milk producers?

Mr. COLSON. Well, I did have some—

Mr. JENNER. And tickets for the dinner?

Mr. COLSON. I think you may want to back up just a day or two.

Mr. JENNER. All right.

Mr. COLSON. I think when Mr. Nunn complained to me I in turn called Chotiner. As I recall Chotiner said well the milk producers are very unhappy with their support levels and I said Murray, that's the same kind of a quid pro quo game, the hell with them. Murray said he agreed with me. He was trying to straighten them out and educate them on the political facts of life and said he would do his best to get them to live up to their commitments regardless of whatever happened in terms of the administration policies. On March 23 my diary shows Mr. Chotiner coming by in the morning at 9:30 but I know that I was called in that day to Mr. Haldeman's office at 9:45. I remember having a few minutes with Mr. Chotiner in the office. That was the same day that the AMPI representatives were coming in to meet with the President in the Cabinet Room that morning.

The only thing I recall discussing with Mr. Chotiner that morning was how stupid I thought it was for the milk producers to come in and meet with the President since the President had decided against them. I just thought it was a poor thing to do to impose on the President after there had been an adverse decision. Chotiner said he tended to agree with me and for that reason wasn't going to attend the meeting.

Mr. JENNER. Was anything said by you to Mr. Chotiner respecting the milk producers and whenever I use milk producers and understand whenever you use it you mean AMPI. Is that current?

Mr. COLSON. Yes, sir.

Mr. JENNER. That they should contribute regardless of the fact that they had not gotten the price support increase?

Mr. COLSON. That was something I said consistently to Mr. Chotiner. I may have said it that morning and I have reason to believe I may have said it that evening to him.

Mr. JENNER. And because what, Mr. Colson?

Mr. COLSON. Well, I don't, I don't have an independent recollection of a meeting with Mr. Chotiner that evening but it does show on that calendar at 4:30, I understand, and I show on his logs at 6 o'clock. But as we have tried to recreate the events of that day with your staff, it occurs to me that what happened was after the President had the meeting, the tape of which I understand the committee has and has heard, at five something that evening, Mr. Erlichman met with me and I thereafter apparently met with Mr. Chotiner at least according to his logs.

I believe that I told Mr. Chotiner, I believe I did not tell Chotiner that the decision was going to be reversed. I don't know whether Ehrlichman told me it was or not but I know that I said to Chotiner I believe that day that you guys, you know, if this decision could get changed and then here you've made this meeting then you hold back and you don't give and then the decision gets reversed and you do give it's just going to look like hell. And I think you guys ought to get off your duffs and live up to commitments. Now, I undoubtedly said that to him that night following my meeting with Mr. Ehrlichman which followed the meeting which was in the President's Office.

Mr. JENNER. What did Mr. Chotiner say?

Mr. COLSON. I don't recall. I know he agreed with me every time I discussed the subject with him. I don't recall. I don't have any independent recollection of that meeting. But I merely am trying to reconstruct it as best I can from the events and from what must obviously have happened.

Mr. FLOWERS. Mr. Chairman? Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Flowers.

Mr. FLOWERS. Do we know when Mr. Chotiner left the White House payroll, Mr. Jenner?

Mr. JENNER. March 5, 1971.

I am not too sure if I recall your testimony. Did you testify as to your state of mind as to what AMPI was attempting to do?

Mr. COLSON. I think Mr. Jenner, in this whole area and I think the committee ought to be aware of this because I suppose there wasn't anybody in the White House over this period of time who was in more contact with the milk producers than I was, one of the reasons that I personally feel very, very strongly about a system of public finance for political campaigns for all Federal offices is that I don't think that there is any way that you can separate out of your mind the subconscious impact of somebody coming in and saying we are going to give \$2 million whether it is the milk producers giving \$2 million to the Nixon campaign or whether it's COPE giving \$2 million to somebody else's campaign. I just think there's no way that you can separate it out. I mean, you can say all you want until your face turns blue that there are no quid pro quos but there just is no way that any man, and I have served with a very honorable Member of the U.S. Senate and I have served with the President, there is no way that any man cannot be influenced even subconsciously by the impact of knowing that the person he is dealing with is providing a substantial source of his campaign funds. It is just unavoidable. And I never once felt that I was recommending something I didn't believe was either in the best interest

of the country and in this case I favored higher milk price supports because I thought it was right for the farmers who had not had enough money. Maybe Mr. Mayne will agree with me, enough income, and I thought that they deserved the kind of parity treatment that they would get from higher price supports or the kind of parity levels that I thought they were entitled to. But I can't tell you that it didn't subconsciously affect my consideration that they were giving \$2 million. I am sure if they were giving \$2 million to the other side I might have felt differently.

Mr. JENNER. Thank you Mr. Colson. Have you completed your remarks with respect to that series of incidents?

Mr. COLSON. Well, you asked about my state of mind.

Mr. JENNER. Yes; of course. Directing your attention to March 23, 1971, did you have a meeting with the President attended by—well, I think I have mispoken, Mr. Chairman. I will reframe my question.

Directing your attention to March 23, 1971, do you recall if on that date at about 5:45 in the afternoon President Nixon met with Messrs. Ehrlichman, Connally, Hardin, Shultz, and other advisers?

Mr. COLSON. I didn't know that then, but I know it now because I am aware of the tape that the committee has.

Mr. JENNER. And you have reviewed that tape?

Mr. COLSON. No, sir.

Mr. JENNER. Or the transcript of it?

Mr. COLSON. No.

Mr. JENNER. Have you ever seen the transcript prepared by anybody other than this committee?

Mr. COLSON. No. The Special Prosecutor's Office read a few lines out of it, to us, when apparently the President and Ehrlichman said talk to Colson.

[Short pause.]

Mr. BUTLER. Mr. Chairman, how much time is left of the 25 minutes we were talking about here?

Mr. JENNER. I will take a few minutes on ITT and complete.

Directing your attention to March 6, 1972, which was a Monday, did you have a conference with the President in which he gave you some instructions or suggestions with respect to the ITT-Kleindienst hearings?

Mr. MEZVINSKY. What was the date?

Mr. JENNER. March 6, 1972, a Monday.

Mr. COLSON. I don't believe that's the day I received any instructions from the President. I believe it was March 10 that I first had an extensive discussion with the President.

Mr. JENNER. Where did that conference take place?

Mr. COLSON. Well, the logs, the logs don't show but I guess it was in the Oval Office.

Mr. JENNER. You and the President were present. Anyone else?

Mr. COLSON. It showed Mr. Ziegler for part of the time, it shows me alone with the President for 30 minutes, and Mr. Ziegler joined us and Mr. Ehrlichman joined us.

Mr. JENNER. All right, now, would you tell us about that meeting and do it in as much sequence as possible and as to the entry of the others into the meeting.

Mr. COLSON. That's the day, that is the first day on which I became convinced that the Dita Beard memo was not authentic, either as to its contents or as to the memo itself. And I had met the night before with Mr. Gerrity of ITT and two of the lawyers from ITT. I had listened to all of the facts they had assembled, and some of the tests they had conducted, or initial tests. I met with the President that day and I remember that I did review with him the information I had which made or which led me to conclude that the Dita Beard memo was not authentic.

The President, I think we sort of kind of eased our way into this gradually, but I had a meeting with a small, relatively small group within the White House, Wally Johnson, Clark Magregor, Bill Timmons, John Ehrlichman, John Dean, Fred Fielding. We started regular meetings on what we called the task force of the President after March 10 and after my meeting with him on that day he began to look to me daily to keep him advised of what we were doing and I don't know whether he gave me formal instructions but I became kind of the head of that task force or the coordinator of that task force, or at least the man who was reporting to the President about it.

Mr. JENNER. What was the task force organized to do and what did it do?

Mr. COLSON. Well, many tasks, but we were trying to defend ourselves against the basic charge that was being made, which was that in exchange for a \$400,000 contribution to the San Diego Convention Bureau to finance the Republican National Convention, coming to San Diego, we had entered into a favorable settlement with ITT of their antitrust case.

My, or our task in the task force, was to try to find the facts. Initially, Fred Fielding began to assemble the White House file. We were trying to prepare material to answer the charges, we were trying to keep Republican members of the Senate Judiciary Committee briefed, we were trying to investigate the authenticity of the Beard memo on which the entire case rested.

We were trying to prepare fact sheets and material and we were doing a general job of trying to rebut what we regarded as untrue political charges against the administration.

Mr. JENNER. Now, were you following closely the Kleindienst ITT hearings?

Mr. COLSON. Well, there was a lawyer, a lawyer from Mr. John Dean's office who was attending the hearings. I think Wally Johnson was at the hearings from time to time. I can't say we were following the content, at least I wasn't following the content of the testimony as much as I was the political give and take so that we could prepare our answers as necessary.

Mr. JENNER. Were you keeping President Nixon informed as to the developments in the areas you have mentioned respecting the work of the task force?

Mr. COLSON. Generally so. Not in depth or not in detail, but the principle allegations and charges and countercharges, I kept him reasonably well advised of.

I told him of sending a man to interview Dita Beard. I told him of tests that were being conducted on the authenticity of the memo, the

FBI tests, and the private tests. I guess I gave him somewhat of an updated account almost everyday of what we were doing in the ITT case or the hearings generally.

Mr. JENNER. All right. Did you have occasion during this period to discuss at least some of the testimony and some of the witnesses with the President?

Mr. COLSON. I don't know that we really discussed the testimony as such as much as we did the punch and counterpunch of the charges that were being made. I did discuss with him Flanagan's testimony or the whole issue of Flanagan testifying. To get to the question I know you are driving at I don't recall coming in and saying Kleindienst testified to this, that or the other things today or Mitchell testified to this, that or the other thing.

Mr. JENNER. Directing your attention to approximately March 24, because if I recall you were uncertain about the exact date, 1972, and if it was March 24, it would have been a Friday, do you recall attending a meeting with President Nixon and Mr. Haldeman at which the President discussed his 1971 telephone call to Mr. Kleindienst in regard to the ITT case?

Mr. COLSON. I don't know that it was that date, Mr. Jenner.

Mr. JENNER. Well, I said I wasn't certain because last Saturday you weren't certain.

Would you please fix it as closely as you can?

Mr. COLSON. I can't. I remember the conversation with the President, but I just can't tell you when it took place, I have to assume that it was in this time period, because that's the most logical time for it to have occurred.

Mr. JENNER. And did you have a conversation with the President respecting that matter?

Mr. COLSON. I recall one instance when the President was basically talking to Haldeman, but I was in the room and obviously the question of his involvement in the ITT settlement had somehow come up.

Mr. JENNER. When you say his you are referring to who?

Mr. COLSON. The President.

Mr. JENNER. All right.

Mr. COLSON. Because he said do you, he said to Haldeman, he said do you remember the time I called Kleindienst and got very agitated or very excited with Dick and did I discuss the ITT case or was I talking about policy. And Bob said no you were talking about policy, you weren't discussing the case.

And the President said are you sure?

And Haldeman said yes, either I was there while you called or Ehrlichman was there and heard your call and the President said thank God I didn't discuss the case.

Mr. JENNER. Do you have a recollection with better certainty that this conversation you have now described took place during the span of the ITT-Kleindienst hearings?

Mr. COLSON. Yes, I think it did. I can't imagine why it would come up at another time. I think it must have—I know it is the first time I ever knew the President talked to Kleindienst about this matter at all. And I don't think I learned about it until late in the month and I remember learning about it in that fashion, that the President was trying to recall what he had said to Kleindienst.

Mr. JENNER. Did the time come when there was a discussion as to whether Mr. Kleindienst could be confirmed or whether he was having trouble in that direction or whether he should withdraw, that the nomination should be withdrawn? Do you remember that general subject? That is all I am asking at the moment.

Mr. COLSON. Yes, sir.

Mr. JENNER. Directing your attention to March 27, 1972, which was a Monday, do you recall meeting with or at least discussing the matter with Mr. MacGregor on or about that date?

Mr. COLSON. Yes, but just so we have the full picture, Mr. Jenner, on March 10th, I had met with Mr. Kleindienst and suggested to him directly that he might wish to help avoid the continuation of these hearings and embarrassment to the President by withdrawing. And there were discussions off and on during the month between Mr. Ehrlichman, Mr. MacGregor, and myself about Kleindienst withdrawing. On the 27th of March—

Mr. JENNER. By the way, what was Mr. Kleindienst's response to your suggestion?

Mr. COLSON. He told me that he had no intention of doing so, that he all his life had looked up to the Office of Attorney General and he was going to persist and be confirmed and be the best Attorney General. He was not very receptive.

Mr. JENNER. I'm sorry I interrupted you.

Mr. COLSON. He was not very receptive to my idea.

Mr. JENNER. Have you finished your answer now?

Mr. COLSON. Yes, sir.

Mr. JENNER. Thank you.

Directing your attention to March 27th, your meeting or conference and discussion with Mr. MacGregor, would you tell us where that meeting was, what the subject matter was, and what was said?

Mr. COLSON. March 27th, MacGregor and I talked that day about the necessity or desirability of withdrawing Kleindienst's nomination. Both of us felt very strongly about it.

I also met with the President that day and—

Mr. JENNER. At what time?

Mr. COLSON. Well—

Mr. JENNER. 3:16 to 3:58 p.m.?

Mr. COLSON. Right. There were three phone calls. In one of those conversations—I apologize for this, but I found the calendar in which I had overlaid notes of my own some time ago and the notation in here is "Meet with the President, argued for Kleindienst's withdrawal." So I think I first raised it with the President on March 27th.

Mr. JENNER. On this day, March 27th—

Mr. COLSON. Yes, sir.

Mr. ADAMS. Excuse me a minute.

Mr. JENNER. Mr. Colson, is this something you discovered since I met with you last Thursday?

Mr. COLSON. Yes, it is something Mr. Adams found today that apparently I had prepared before I went to the grand jury on the *ITT* case last March.

Mr. JENNER. Would you be good enough to supply us with a copy of that document?

Mr. COLSON. Sure, if you understand that they are rough notes and may or may not be—

Mr. JENNER. I appreciate that, sir.

Go ahead.

Mr. COLSON. Well, my notes and my recollection are that we—that I raised with the President the question on the 27th of withdrawing Kleindienst and again on the 28th, MacGregor and I and Haldeman—but MacGregor and I—were carrying the ball, presented to the President all the reasons why we felt Kleindienst's nomination should be withdrawn.

Mr. JENNER. You came away from that meeting with what impression with respect to whether the Kleindienst nomination would or would not be withdrawn?

Mr. COLSON. I had the feeling, Mr. Jenner, as I mentioned to you before, that the President was inclined to agree with Mr. MacGregor and myself that Kleindienst should be withdrawn.

Mr. JENNER. And that was your recommendation, was it not?

Mr. COLSON. Yes, sir.

Mr. JENNER. Directing your attention to March 29, 1972, which was a Wednesday, do you recall a meeting you attended with Mr. Haldeman and Mr. MacGregor at 3 o'clock in the afternoon?

Mr. COLSON. Yes, I do.

Mr. JENNER. And was that meeting about the Kleindienst nomination?

Mr. COLSON. Yes, sir.

Mr. JENNER. What did Mr. Haldeman say and Mr. MacGregor and yourself in that connection?

Mr. COLSON. Well, I think we were still kind of piling on additional arguments. I think we were getting Wally Johnson's reports from the Hill.

Did we establish that was—

Mr. JENNER. March 29, 1972, a Wednesday.

Mr. COLSON. And we established that was with Haldeman and MacGregor?

Mr. JENNER. Well, look at your notes. My notes indicate there was a meeting of you, Mr. Haldeman, and Mr. MacGregor at 3 p.m., that afternoon.

Mr. COLSON. It is not on my log, but I think that is right. You had that compiled from Haldeman's log?

Mr. JENNER. Yes. It comes from Mr. Haldeman's calendar, Mr. Colson.

Mr. COLSON. Right.

As I remember, Mr. Jenner, that was a meeting at which MacGregor and I brought Haldeman up to date on all the latest reasons, all the latest information from the Congress, the latest arguments on why we felt Kleindienst's nomination should be withdrawn.

Mr. JENNER. Did Mr. Haldeman say anything about what President Nixon's thoughts were in that connection?

Mr. COLSON. No; he told us that the President was going to meet with Kleindienst that afternoon—yes, I guess my answer should be yes. He told us that the President was going to meet with Kleindienst that afternoon with a view to seeing whether Dick would withdraw his nomination.

Mr. JENNER. Directing your attention to March 30, 1972, which was a Thursday—

Mr. COLSON. Yes, sir.

Mr. JENNER. Do you recall having a meeting on that day at 8:45 in the morning with Mr. MacGregor and Mr. Haldeman?

Mr. COLSON. Yes, sir.

Mr. JENNER. Would you tell us what Mr. Haldeman said, what you said, and Mr. MacGregor said at that time?

Mr. COLSON. Basically, Mr. Haldeman called MacGregor and myself in to tell us that the President had met with Kleindienst the prior afternoon in the White House library; that Kleindienst had talked him out of seeking the withdrawal of his nomination. Kleindienst had argued that they would go another week and see whether the nomination could be reported out. The President had agreed to give Kleindienst another week to see whether it could be worked out.

The President further got an understanding with Kleindienst that the White House would back away from this so that it was not a White House versus the Congress fight, but rather a Justice Department matter; that Kleindienst and John Mitchell would handle the relationships with Eastland; and that MacGregor would merely help with some other members of the, Republican members of the committee; and that MacGregor and I had made a good argument, but we had lost; that they were going to go ahead and try to bull the nomination through.

Mr. JENNER. Did you make notes in the course of that meeting?

Mr. COLSON. Yes, I did.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, those notes were delivered to you in the envelope this morning.

Mr. Chairman, may I identify those notes, which consist of four pages—five pages—legal length, as Colson Exhibit No. 22?

The CHAIRMAN. They will be so identified.

Mr. JENNER. May they be made part of the record?

The CHAIRMAN. They will be so made.

[The documents referred to were marked Colson Exhibit No. 22 and follows:]

P - H - Klindis case - Colson 22 - 4379

P concerns -

① Political investigation

W.H. Too far out in front
Mitchell handle of DOJ -
McGregor + Colson can't get caught -

② Scott - keep him off the
severing idea

③ got to get hearings closed

④ acting AG. role is not
adequate - unsatisfactory Politically

⑤ Klindis meet with P

^{in session} a) Exec Session Thursday -
he thinks only 3 votes against him -

hearings will end next Thursday

2 weeks for minority report -

1 week for majority reply -

as soon as it hits floor, it
will be voted -

will be a filibuster, we
have votes for closure -

there will be a vote in late

May, early June

Klindis will pass in June

agreement we can't go beyond
June 1 -

PS Vlad!

U should probably phone call
to Eastland & get agreement

if it works, we move to
next phase; we ride 2 to
3 weeks in hopes it is brought
up -

then we go to debate on
floor -

if vote doesn't come next
week, we have to recess

all dealings should be with Kleindt
& Eastland - all of us should
avoid Eastland - leave him to Kleindt

Don't worry about trouble with
Bill Hunter -

we've put too much time &
effort into this, diverting
from other more judicious
things -

Pauine is handling ~~his~~
Envin -

Mitchell & K dealing with
Eastland

& Mac Guogor dealing with others

failures in the analysis of P point
at that of this juncture

(1) Mitchell | Eastland & Mac Guogor elsewhere
guarantees a similar approach -
(also takes Mitchell away from campaign)

(2) Best judgement of those who know
with the Best is not being taken
& hence we are proceeding on less than
the wisest assessment of prospects -

(3) Setting June 1 as date whereby
postpones hard decision, which needs
to be made now - waiting until June
1 only jumps into Deen's hands -

(4) Walley Johnson - Says "No way" to get Dick
Klein's confirmed -

meet with Hruska this sat - Rep won't
fight it out - will agree to limited
of witnesses - 11th or 18th April with the
Policy Committee

3 weeks to Floor
from end of hearings

We
now have
significant
additions
at position
Training time
to get
easier
& down to
the way
to support

Robert Hammond - Deen under
has left DJS & is
word used Deen Russell
Tanner (witness at word used
reverted)

Washburn, Scott & Cook -

Wesley Johnson was on Committee Staff
'68 - '70

Deans can easily stall

21st or 28th it will
come out of Committee -
but then reports come out
within 14 days -

We are now into ~~that~~ May 8 -

Manfield won't hold it, because
there have been additional hearings -
- but he will let it simmer -
afford Senators time to study the
record -

Manfield & Byrd will vote against -

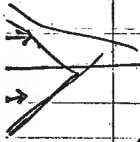
Other revelations come out 5 ??

Big move

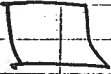
Mid-May - debate begins - no
way to get cloture - hence we
can wear them down - the only way
is to press hard -

Wesley & Huska feels Time works
in favor of Deans - Chance

Other side is making all out effort
to beat him - hence they will
delay until they get vote to beat
him



Cheer Lahn invites to
Hussein Dinner & why they
turned down


 $\frac{1}{3}$

70



Cheer funds

36 156 3229

Mr. JENNER. Directing your attention to the notes you have before you, are those the notes you made on that occasion?

Mr. COLSON. The beginning of it is, where it says "P-H", President and Haldeman, "Kleindienst case." These were notes I made in the conversation that morning November 30, with Haldeman and MacGregor.

Mr. JENNER. I will ask you this. Is all of the memorandum, of the exhibit identified as Colson Exhibit 22 in your handwriting?

Mr. COLSON. Yes, it is.

Mr. JENNER. Is that exhibit in the same condition now as it was when you completed writing it?

Mr. COLSON. Well, I think it is just a Xerox of what we gave you.

Mr. JENNER. This is all I was asking.

Mr. COLSON. Yes.

Mr. JENNER. The Xerox is a true and complete copy of a reduplication of the original of those notes. Is that correct, sir?

Mr. COLSON. I am sure it is accurately duplicated.

Mr. SEIBERLING. Point of clarification, Mr. Chairman.

The CHAIRMAN. Mr. Seiberling.

Mr. SEIBERLING. Does the exhibit include this first page that starts out with the White House stationery on it, or does it start on the next page?

Mr. JENNER. The first page of the exhibit, Congressman Seiberling, reads "P-H-Kleindienst."

Mr. SEIBERLING. And this White House letterhead has nothing to do with it.

Mr. JENNER. It does not.

Mr. COLSON. Well, it has to do with the notes.

Mr. JENNER. Would you identify that and explain to Congressman Seiberling what relationship it has to the exhibit?

Mr. COLSON. Well, these were just notes that I just kept or made that morning in sort of a continuous fashion, Congressman Seiberling. Down to the middle of page 2 of these notes—no, all of pages 1 and 2, down through the first, the top third of page 3, were notes that I made in the meeting with Haldeman when Haldeman was in effect relating what the President's understanding was with Kleindienst.

You will see No. 5 on page 1 says, "Kleindienst met with P"—the President—"his version"—that is Kleindienst's version—of what would happen.

I intermingle here some of MacGregor's comments.

Then I go to the President's view on page 2, which was "Kleindienst should pursue phone call to Eastland, get agreement" on when it votes, if it works, and so forth. That was the President's view.

And then at the bottom of page 2, the President indicated "We have put too much time and effort into this, diverting from other, more productive things." My notes of the Haldeman-MacGregor meeting end a third of the page down on page 3.

Then I went back to my office and found a note from Fred Fielding, which my secretary had typed, and it was "Fielding has some other papers to show you"—meaning some files which he had been collecting.

She wrote on it in handwriting, "thinks very important."

Mr. JENNER. Mr. Chairman, that document has been distributed to the committee. It is the document that Congressman Seiberling made, to which he averted. May it be marked Colson exhibit 22A.

The CHAIRMAN. On what date were these notes made?

Mr. COLSON. November 30, Mr. Chairman—I'm sorry, March 30.

The balance of these handwritten notes became the foundation of the memorandum of March 30 that I then prepared for Mr. Halde-
man, which the committee I know has seen.

Mr. JENNER. Excuse me.

Mr. Chairman, I ask that that document be identified as 22A and made a part of the record.

The CHAIRMAN. It will be so marked.

[The document referred to was marked "Colson Exhibit No. 22A" and follows:]

[Colson Exhibit No. 22A]

THE WHITE HOUSE
WASHINGTON

Fielding has some other papers to show you..

Thinks very important!

I++ file

Mr. COLSON. The balance of the handwritten notes that you have, mine were the basis on which I had sort of outlined for my own purposes the case that I thought needed to be made as one last, final appeal to withdraw the Kleindienst nomination.

22A, which you were referring to, Congressman Seiberling, I found when I got back to my office. The thrust of this was that Fred Fielding, who was the fellow in the White House, John Dean's assistant, who was collecting all the papers and documents on the ITT case, had located some other papers in his effort to pull together everything out of the files which he thought I should see.

I told Mr. Fielding to come down to my office. He did, bringing the whole ITT file with him. And between the two of us, we then wrote the memorandum of March 30 which the committee has, the first part of the memorandum.

Mr. JENNER. Excuse me.

Mr. Chairman, we distributed that this morning. In any event, although the committee already has it and it is the documents the first page of which is numbered 3372. It is entitled "Exhibit No. 121, March 30, 1972, Memorandum for H. R. Haldeman from Charles Colson, subject, ITT."

[Material unrelated to testimony of witness deleted.]

Mr. JENNER. Have you read exhibit No. 121? The top number is 3372?

Mr. COLSON. Yes.

Mr. JENNER. Is that your memorandum?

Mr. COLSON. Yes; that is the memorandum—

Mr. JENNER. That you prepared together with Mr. Fielding?

Mr. COLSON. Yes.

Mr. JENNER. All right, sir.

Now, I direct your attention to page 3376, which is the last page of the exhibit. You will see a sentence about half way down commencing "There is a May 5, 1971, memo from Ehrlichman to the AG"—do you find that?

[Material unrelated to testimony of witness deleted.]

Mr. JENNER. Now, is that the memorandum to which you refer in the sentence on that last page, reading "This memo would once again contradict Mitchell's testimony and more importantly, directly involve the President?"

Mr. COLSON. That is the memo I was referring to; yes.

Mr. JENNER. And what is the genesis of that memo? That is, the May 5, 1971, memo?

Mr. COLSON. Well, I don't know the genesis of it. It is a memorandum that John Ehrlichman wrote to the Attorney General. I was not aware of it until I was in the process of preparing the March 30, 1972, memo to Mr. Haldeman.

I think this is one of the documents that I had not seen until the day that we were preparing this memorandum. I am not sure, as a matter of fact, Mr. Jenner, whether Mr. Fielding dictated that particular portion of this memo or whether I did. But Mr. Fielding obviously had this and I did at the time we were preparing.

Mr. DENNIS. Mr. Chairman, is it contemplated that the committee members would have a copy of this memo so we know what we are discussing?

Mr. JENNER. Yes; it was just drawn to my attention.

Mr. Chairman, if we may be permitted to identify the May 5, 1971, memo as Colson exhibit No. 23, we will duplicate it and furnish it to the committee.

[The document referred to was marked "Colson exhibit No. 23", and follows:]

[Colson Exhibit No. 23]

May 5, 1971

MEMORANDUM FOR

THE ATTORNEY GENERAL

Following up our conversation at the Cabinet meeting the other day, I would like to arrange to talk with Dick McLaren about the present status of the ITT cases in order that we can achieve the agreed-upon ends discussed by the President with you.

I would be happy to have anyone else sit in that you might designate.

Would you like me to make this arrangement directly with Dick or would you prefer to have us work through you?

004127

John D. Ehrlichman

bcc: Bud Krogh

The CHAIRMAN. Thank you.

Mr. JENNER. What happened to the May 30 memo, if you can recall? That is Colson exhibit—the March 30 memo.

Mr. COLSON. The March 30 memo?

Mr. JENNER. Yes.

Mr. COLSON. I sent it to Mr. Haldeman. I wrote it the same day and had it delivered over or delivered it over myself to Mr. Haldeman.

Was that your question?

Mr. JENNER. Yes, did you deliver copies to persons in addition to Mr. Haldeman.

Mr. COLSON. MacGregor and Fielding I know I sent copies to.

Mr. JENNER. Did you ever discuss the memo with anybody?

Mr. COLSON. I think I told the President when I said to him that day in one of the several meetings that we had that even though I had lost the argument with respect to Kleindienst that I did have a piece of paper coming to him which I hoped he would read.

Mr. JENNER. What did the President say, if anything, in that regard?

Mr. COLSON. I don't recall, Mr. Jenner. I am sure he said he would read it.

Mr. JENNER. What was the normal practice of memorandums, with respect to memorandums that you sent to Mr. Haldeman intended for the President's attention?

Mr. COLSON. Well, as I explained earlier today, if I were dealing with Mr. Haldeman on a particular issue and I knew the President and Mr. Haldeman were involved, as was the case here where Haldeman told me of the President's decision, briefed MacGregor and myself, I would normally, just out of courtesy to Mr. Haldeman, send the memo to him with the special attention he would show it to the President. That was the case here.

Mr. JENNER. Alright, and was the memorandum ever returned to you?

Mr. COLSON. No.

Mr. JENNER. I have no further questions, Mr. Chairman.

Ms. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

I just wonder if counsel could get the witness to read a portion of this memo—I think it is on the third page of exhibit 22,¹ down in the bottom left-hand corner, where it appears to say "We have done the most significant additional exposure." I just wonder if the witness could decipher that handwritten portion.

Mr. JENNER. You heard the lady's request, Mr. Colson. Would you please respond?

Mr. COLSON. Are you talking about my handwritten notes?

Ms. HOLTZMAN. Thank you. It is the third page of exhibit 22 in the bottom left-hand corner.

Mr. COLSON. "We run risk of additional significant exposure tracing this to RN, Gleason, and documents." I think it says. "And ITT may be subpoenaed." Those are points that you will see there that I made in the memo.

¹ See p. 389.

Mr. WIGGINS. Mr. Chairman.

The CHAIRMAN. Mr. Wiggins.

[Material unrelated to testimony of witness deleted.]

Mr. WIGGINS. Mr. Chairman, if this interrogation were conducted in a jail house commencing at 10 a.m. in the morning and continuing until 9:30 p.m., there would not be many members of this committee that would not recognize that there was a question of denial of due process to a witness subjected to that kind of interrogation. He has been asked to sit here for at least 1½ hours more of cross examination, taking the hour to 11 p.m., at which time members of the committee must commence their examination. Now, the efficiency of this committee is rapidly eroding and is going to decline much more rapidly in the hours ahead.

In the great historic sweep of this thing, one day isn't going to make that much difference. Yet we will be able to perform our task much more efficiently if we take that day and come in fresh tomorrow morning.

The CHAIRMAN. Suppose we recess until 9 o'clock tomorrow morning.

Mr. HUNGATE. Mr. Chairman, I have an inquiry. I understand the rule is we finish witnesses tomorrow. Is that correct?

The CHAIRMAN. Unless the committee again extends it.

Mr. HUNGATE. Well, there was considerable sentiment in the committee at one point to finish this whole business by April 30 and I became more sympathetic with that as time goes by. I would urge the committee to finish tomorrow. Within that, I am willing to abide by—

The CHAIRMAN. I think the request is a fair one and we will recess until 9 o'clock tomorrow morning.

Mr. McCLORY. Mr. Chairman, may I suggest 10 o'clock? We do have a meeting at 10 o'clock, already scheduled.

The CHAIRMAN. We'll meet at 9 a.m.

[Whereupon, at 9:40 p.m. the committee recessed to reconvene at 9 a.m., Tuesday, July 16, 1974.]

IMPEACHMENT INQUIRY

TUESDAY, JULY 16, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 9:25 a.m., in room 2141, Rayburn House Office Building, Hon. Peter W. Rodino, Jr. (chairman) presiding.

Present: Representatives Rodino (presiding), Donohue, Brooks, Kastenmeier, Edwards, Hungate, Conyers, Eilberg, Waldie, Flowers, Mann, Sarbanes, Seiberling, Danielson, Drinan, Rangel, Jordan, Thornton, Holtzman, Owens, Mezvinsky, Hutchinson, McClory, Smith, Sandman, Railsback, Wiggins, Dennis, Fish, Mayne, Hogan, Butler, Cohen, Lott, Froehlich, Moorhead, Maraziti, and Latta.

Impeachment inquiry staff present: John Doar, special counsel; Albert E. Jenner, Jr., minority counsel; Samuel Garrison III, deputy minority counsel; Richard Gill, counsel; Gary Sutton, counsel; Bernard Nussbaum, counsel; Michael Conway, counsel; and Lee Dale, counsel.

Committee staff present: Jerome M. Zeifman, general counsel; Garner J. Cline, associate general counsel; Alan A. Parker, counsel; Daniel L. Cohen, counsel; William P. Dixon, counsel; Arden B. Schell, counsel; Franklin G. Polk, associate counsel; Thomas E. Mooney, associate counsel; Michael W. Blommer, associate counsel.

Also present: James D. St. Clair, special counsel to the President; John A. McCahill, assistant special counsel; and Malcolm J. Howard, assistant special counsel.

The CHAIRMAN. The committee will come to order.

Mr. Colson, I know you recognize you are still under oath.

Mr. COLSON. Yes, sir.

The CHAIRMAN. I think that last night when we recessed, we were at that point when Mr. St. Clair would begin his examining and his questioning.

Mr. ST. CLAIR. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. St. Clair, I hope that we recognize that we have another full day before us.

Mr. ST. CLAIR. I have utilized some of the time to shorten my examination.

The CHAIRMAN. Thank you very much.

Mr. ST. CLAIR. May I then proceed, Mr. Chairman?

The CHAIRMAN. Please do.

TESTIMONY OF CHARLES COLSON, ACCOMPANIED BY DAVID SHAPIRO, ESQ., AND KENNETH L. ADAMS, ESQ., COUNSEL—Resumed

Mr. ST. CLAIR. Mr. Colson, first with respect to the ITT matter, if I may, were you aware of the President's policy on antitrust matters as they affected conglomerates?

Mr. COLSON. Yes, sir, I was.

Mr. ST. CLAIR. And did you have conversations with the President from time to time on that subject matter?

Mr. COLSON. I was either present at meetings, Mr. St. Clair, with the President or with others when the President's policies were being discussed. I was well aware of them in 196—in 1970, and also—in 1970 primarily.

Mr. ST. CLAIR. And during the course of those conversations as it related to the ITT cases, were you present at any conversations as regards those cases as they related to this policy?

Mr. COLSON. I can remember discussions of the policies as they related to the ITT case, but I don't recall being in a meeting with the President where the ITT case and those policies were discussed.

Mr. ST. CLAIR. I see.

Well, now, at some point, a task force was formed that you sort of became the head of, is that right?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And that task force was formed approximately when?

Mr. COLSON. The task force actually began to meet probably during the week of March 6, 1972, or maybe even a few days prior to that. Some time during that week, I think toward the latter part, I was asked by the President to kind of oversee the efforts of that task force.

Mr. ST. CLAIR. Was this task force formed in connection with hearings then underway on the Hill?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And those were the Kleindienst nomination hearings?

Mr. COLSON. The Kleindienst nomination hearings.

Mr. ST. CLAIR. Am I correct in suggesting that the focus of those hearings at one point, at least, became the relationship, if any, between a contribution by ITT's Sheraton Hotels to the city of San Diego and the settlement of the ITT cases?

Mr. COLSON. The thrust of the original Anderson column, Jack Anderson's column, and the thrust of the original criticism or attacks on the part of members of the Senate Judiciary Committee was directed at the alleged relationship between the settlement of the antitrust case and the contribution of ITT-Sheraton to the convention bureau at San Diego, which was being organized to attract the Republican National Convention.

Mr. ST. CLAIR. And can you recall now the approximate date of the contribution and then the date of the settlement within close proximity?

Mr. COLSON. Well, the allegation was that the offer was made in close proximity to the date of the settlement. I think that—I have forgotten now the precise testimony, but I think it was a question of when Mr. Reinecke discussed it with Mr. Mitchell and when Congressman Wilson discussed it with ITT, and then Mr. Timmons at the White House. I think that they were in the same general time area, yes.

Mr. ST. CLAIR. Did you have any knowledge of your own as to whether or not the President participated in any way in the settlement of the ITT cases?

Mr. COLSON. At what time, Mr. St. Clair?

Mr. ST. CLAIR. At that time; at the time of the settlement or before.

Mr. COLSON. No, I did not at the time of the settlement or before. As a matter of fact, I really was not personally aware that the cases were being settled.

Mr. ST. CLAIR. That is, you were the head of the task force on the ITT matter and you were not aware that the cases were being settled; is that right?

Mr. COLSON. Well, your timing-----

Mr. ST. CLAIR. I am sorry. My timing is off. It must be early in the morning.

When did you first become aware that the ITT cases were settled?

Mr. COLSON. I believe that I read it in the newspaper and I was kind of—I hadn't been following the ITT matter. I had been in meetings in 1970 at which the general question of the President's attitude toward pursuing antitrust actions on the grounds of bigness per se was very apparent to me. But in 1971, when the case was actually settled, I was doing other things.

Then in March of 1972, I headed a task force in the White House that was designed—that was intended to counter the political criticisms that were arising out of the alleged connection, as we have described before.

Mr. ST. CLAIR. Did you follow the testimony of the witnesses during the course of the nomination hearings?

Mr. COLSON. Not the testimony as testimony. I was following more, as I tried to describe last night, the charge and countercharge which was directed at the alleged connection between the two.

Mr. ST. CLAIR. Well, now, did you at any time advise the President that you thought that Mr. Kleindienst was not telling the truth?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Did the President at any time indicate to you any awareness that Mr. Keindienst was not telling the truth?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. With respect to the settlement itself, do you know who was in charge of and who initiated and negotiated the settlement?

Mr. COLSON. I didn't have any firsthand knowledge at the time the settlement was entered into. The only knowledge that I acquired was knowledge during March of 1972, when I was trying to pull together the pieces, so to speak, of the administration's responsibility to the charges, and my attitude at the time of the settlement and my attitude at the time we were defending against the attacks during the Kleindienst hearings was that the settlement had been a very tough one against ITT and it was not, as alleged, a very favorable settlement for the company. But I didn't—I did not at the time of the settlement have any knowledge of how it was negotiated or settled. In March of 1972, I was under the impression that it had been settled by Mr. McLaren, by Dean Griswold, and of course, Mr. Kleindienst himself had participated, as he testified.

Mr. ST. CLAIR. But in any event, you are clear, are you, that at no time did the President indicate to you any awareness that Mr. Klein-

dienst was not telling the truth in the course of his testimony; is that so?

Mr. COLSON. No, sir, and I never had any occasion to think that he was not.

Mr. ST. CLAIR. Now, sir, if we may direct your attention to the dairy investigation, you told us that at some point, you were referred to Mr. Parr to discuss possible campaign contributions. Do you recall that?

Mr. COLSON. Well, that is not exactly the correct characterization. Mr. Gleason, who was an assistant to Harry Dent in the White House, had asked me to meet with Parr and Nelson primarily because they wanted someone they could talk to from time to time about their problems. In other words, they wanted to be able to come in and argue for the Tariff Commission report, the acceptance of a Tariff Commission report; they wanted to be able to argue for the cheese program, the import program, the milk supports. And apparently, they had not been able to deal with anyone at the White House about that. That was the function of my office and my understanding—I think I am correct in this. My understanding is that they initially wanted to talk to me about, just because I would be the person they could occasionally come to with problems. In fact, when they first came to me, they were complaining about their inability to find any political committees to which they could make contributions.

Mr. ST. CLAIR. You said that was the function of your office. What did you mean by that?

Mr. COLSON. My office was originally established in the White House to be kind of a focal point or a contact point between nongovernmental groups and the White House staff. Instead of having various groups, labor unions—my function covered the whole gamut of labor unions to League of Women Voters, to fish and wildlife societies, chamber of commerce. And rather than have those groups trying to see different members of the White House staff, the President created one office where all outside groups could come and where, when we wanted to ask for assistance from outside groups in supporting administration policies, that would also be the function of my office.

Mr. ST. CLAIR. Very briefly, if you did receive inquiries or communications from any such groups, how would they be processed, very briefly?

Mr. COLSON. Well, normally, if someone came in and wanted to make a point of view known, I would either represent that in a meeting that might take place on that issue. I might send a memorandum to the member of either John Ehrlichman's staff or Henry Kissinger's staff that was handling the particular issue, or I might have a member of my staff try to follow the problem just to be sure that the outside viewpoint was being represented.

One of the things the President was concerned about at the outset of the administration was that he didn't want to be receiving information and material only from within the Government bureaucracy. He wanted to be able to get an outside dimension to it and that was one of the functions I fulfilled.

Mr. ST. CLAIR. So the dairy group was then referred to your office consistent with this policy; is that correct?

Mr. COLSON. Yes, sir. It was about a—it was over the process of the first year that I was there that gradually, groups that had been deal-

ing with other people started dealing with my office, which was the place for them to be.

Mr. ST. CLAIR. At some point, I take it, you had a conversation with Mr. Parr in which he explained the reorganization of—is it AMPI—AMPI?

Mr. COLSON. AMPI.

Mr. ST. CLAIR. And their capability of raising campaign funds.

Mr. COLSON. He was describing to me the mechanics of TAPE, which was the political education committee they had patterned after COPE.

Mr. ST. CLAIR. What was the relationship according to your understanding between TAPE and AMPI?

Mr. COLSON. The same kind of relationship that exists between the AFL-CIO and COPE, which is a separate political trust fund—separately administered, but with contributions coming from the members of the dairy cooperative.

Mr. ST. CLAIR. At some point during these early discussions, as I understand your testimony, discussion took place regarding the amount of money that Mr. Parr felt their organization could raise.

Mr. COLSON. I described that last night. The first conversation was in a jocular vein, but I nonetheless took them seriously.

Mr. ST. CLAIR. That is, as I understand it, Mr. Parr said something, they thought they could raise \$1 to \$2 million.

Mr. COLSON. That is correct.

Mr. ST. CLAIR. And you seized upon the larger figure?

Mr. COLSON. That is correct.

Mr. ST. CLAIR. And talked of that in terms of being a commitment?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Is it fair to say that when it was suggested to you, that it was suggested in terms of we promise or we commit to give you \$2 million, or did you rather escalate that?

Mr. COLSON. Well, what they said was that—precisely what Mr. Parr said is that, we are going to devote all of the money we can raise to the President's reelection. We used to give it all to Democrats, but we have switched; we want to see the President reelected, and we don't want to scatter it all around as we used to. We want to concentrate it and help the President.

I said, how much will you raise?

He said, \$1 or \$2 million, and I seized upon the higher figure.

Mr. ST. CLAIR. And dealt with it from that point on as if that were a commitment for \$2 million?

Mr. COLSON. That is correct. He did not say it quite as firmly as—

Mr. ST. CLAIR. As you said he said it?

Mr. COLSON. As I was happy to interpret it.

Mr. ST. CLAIR. I see.

Ultimately, if you know, how much was actually paid toward the President's reelection by AMPI?

Mr. COLSON. I don't have any personal knowledge of that, Mr. St. Clair, other than what I have read in the press, which I think was four—

Mr. ST. CLAIR. \$400,000?

Mr. COLSON. I think that is the figure I have seen.

Mr. ST. CLAIR. Did you have anything to do with efforts to "collect" on that commitment?

Mr. COLSON. Initially, I did, in the sense that right after the 1970 election, I arranged for Mr. Kalmbach and Mr. Tom Evans of New York, a lawyer in New York, to meet with Messrs. Parr and Nelson to set up a system whereby they would be able to start making contributions toward 1972 as early as late 1970. After, I guess, the spring of 1971, the only contact I had with it was the one time that I called Mr. Chotiner and asked if he could help with a \$5,000 contribution, which I testified to yesterday. Beyond that, I did not have anything to do with it. I did not have anything to do with it thereafter.

Mr. ST. CLAIR. And who did, if you know, if anyone?

Mr. COLSON. Mr. Kalmbach told me in January of 1972 that he had been—that he was dealing with the milk producers through new counsel whom they had selected. I expressed some reservations about the counsel that they were dealing with. Mr. Kalmbach said he had been told to deal with them. He would not tell me who told him to deal with them.

That is all, really, that I know about it. I stayed out of it, myself.

Mr. ST. CLAIR. You had some difficulties with the counsel representing AMPI that you dealt with, as I understand it?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And particularly was it Mr. Hillings?

Mr. COLSON. Well, Mr. Hillings, who wrote what I regarded as an outrageous letter, which is Colson exhibit—

Mr. ST. CLAIR. It was marked yesterday.

Mr. COLSON. Also, Mr. Harrison, who was very difficult in his dealings with our office. He was very heavyhanded in his approach and—

Mr. ST. CLAIR. How do you mean? I heard you say those words yesterday, but it was not clear to me what you were describing.

Mr. COLSON. Well, I think what I was trying to convey to the committee—because to me it is important as part of a broader issue, although I know it does not relate to this particular proceeding—is that this whole collection of people involved in the milk producers, including their lawyers—Mr. Harrison, Mr. Hillings, their other law firm, Jacobson & Seymour, I guess—just never could get away from the idea that they could come in and flaunt in the White House or anyplace else the fact that they have made heavy contributions. And every time they would, they would just demand an audience whenever they wanted to see you. They would order the secretaries around. They would subtly remind you that they were big donors.

As I said, as hard as it is to—you try very hard not to let that affect you, but as a matter of fact, it affected me adversely.

Mr. ST. CLAIR. I was going to ask you, what effect did that have on you?

Mr. COLSON. It made me mad. It didn't make me mad enough to throw them out and keep them out, which I should have—

Mr. ST. CLAIR. Did you throw them out at one point?

Mr. COLSON. I threw them out a couple of times.

Mr. ST. CLAIR. I see. Did their attitude in any way endear them to you?

Mr. COLSON. Hardly. If you look at the December 18 memo, I was—

Mr. ST. CLAIR. Hardly. If you say that their conduct as far as you are concerned was counterproductive?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Now, with respect to the import quota decision, I take it you knew in advance by some length of time that the President was considering not reducing the import quotas to zero on all the products that were under consideration.

Mr. COLSON. That is correct, Mr. St. Clair. There had been a whole series of meetings with Dr. Houthakker from the—I can't think of the name of it.

The CHAIRMAN. The Tariff Commission?

Mr. COLSON. No, no, Council of Economic Advisers—the Agricultural people, the State Department, the Commerce Department, and Mr. Flanagan and Mr. Petersen, when he came to the White House, and it had been a very controversial set of regulations. The Tariff Commission had sent, as I recall, a split decision of the Tariff Commission. And it was back and forth and I knew it was going to come out in a way that would not satisfy the milk producers.

Mr. ST. CLAIR. Was it appropriate for you to know this in your position of being in charge of handling outside groups such as this group?

Mr. COLSON. I was generally asked, or a member of my staff was asked to attend most of the internal policy discussions because one of the questions would always be, well, how is this going to affect different groups, and we were supposed to be kind of the in-house experts on that. So we knew pretty much what was going on in most of these areas or just by being in the staff, you kind of had a feel of these things. It was not inappropriate, certainly.

Mr. ST. CLAIR. And ultimately, the decision was made to maintain import quotas except on some products, is that right?

Mr. COLSON. Well, there were two decisions pending at that time. I don't recall the specifics of them. One was the price break point on the imported cheese. The other was a whole category of specialty items. One came out a mixed decision. It did not reduce to zero but it eliminated certain areas. The break point on cheese I don't think was ever satisfactorily resolved.

Mr. ST. CLAIR. Was the decision, in any event, unfavorable to the attitude of Mr. Parr and his clients?

Mr. COLSON. On the break point on cheese, it was very unfavorable. On the other Tariff Commission recommendation, and don't hold me to this because I am not certain which came when, but I think the first one came out sort of a mixed decision. The second one was very adverse to them.

Mr. ST. CLAIR. And did you receive any complaints from representatives of AMPI when that decision was announced?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. From whom?

Mr. COLSON. I know there was a lot of—there were a lot of complaints in the Congress about it, and I think Mr. Hillings wrote some letters, some of which I have seen. I don't know whether they are in the committee file or the Special Prosecutor file. But I know they were—there was also a memo I wrote about the break point on cheese problem. But there were complaints.

Mr. ST. CLAIR. I am sorry. You mentioned yesterday, I believe, that you thought it would be unwise for the President to meet with this

group in the light of the adverse decision. Would you explain to us why you felt that would be unwise?

Mr. COLSON. Well, originally, just so that the record accurately reflects my position, originally, prior to the milk price-support decision in early march of 1971, I had favored their meeting because Cliff Hardin and the President had agreed to hold such a meeting. After the decision was adverse, I thought it was very unwise to bring in a big group of dairy farmers who represented large segments of agriculture in many States and put the President in a difficult position of having to sit there and listen to their arguments and then tell them he was not going to do anything.

Mr. ST. CLAIR. Did you convey this view to the President?

Mr. COLSON. I think I conveyed it in the normal staffing system; in other words, originally, before the first decision, I am sure that—I think I did. Staff has a memo that I wrote concurring in the meeting being held. After the decision, I am sure that I advised Mr. Chapin's staff that I did not think it was a wise idea, or Mr. Whitaker.

Mr. ST. CLAIR. And on the other hand, the meeting was held and the President did meet with the group?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. On that same day, I believe, the President met with some of his principal advisers on the question of the price support, did he not?

Mr. COLSON. That is what I now understand, but I was not aware of it at the time.

Mr. ST. CLAIR. You were not present at that meeting?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Do I understand that you were not aware that the meeting was taking place?

Mr. COLSON. I am quite certain that I did not know that that meeting was take place—I knew that the meeting in the Cabinet Room with all the representatives of the dairy group was taking place. I did not know of a meeting of some of the President's advisers on this afterward.

Mr. ST. CLAIR. At some point, you say you had a conversation with Mr. Chotiner at about this time, who no longer was on the White House staff, regarding the dairy, the AMPI group carrying out their commitments. Am I correct?

Mr. COLSON. Well, not completely. I had had several conversations in that period with Mr. Chotiner about the dairy industry honoring the commitments they had made to purchase tickets to the Republican National Committee and congressional committees dinner which was being held on the 24th. I don't believe I talked to Mr. Chotiner about their overall commitments.

Mr. ST. CLAIR. Your talk with him had to do, then, with the tickets to the dinner, is that right?

Mr. COLSON. That is my best recollection, sir.

Mr. ST. CLAIR. And that dinner was on the 24th, you say?

Mr. COLSON. Yes.

Mr. ST. CLAIR. Ultimately, if you know, did they purchase all or some of the tickets that were committed?

Mr. COLSON. I don't know the total amount that they eventually purchased. I know that they had not purchased any at the time that I was complaining to Mr. Chotiner, and then my recollection is they did purchase some, because I know Mr. Chotiner had tickets that he was making available to people in the White House. I don't know the full extent of the purchase.

Mr. ST. CLAIR. Did the President ever discuss with you this \$2 million commitment that you obtained from Mr. Parr?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Now, when did you first learn of the decision to increase the price support?

Mr. COLSON. Well, that is a—I am going to have to try to reconstruct, if I may, to answer that question.

Mr. ST. CLAIR. Well, if I may, Mr. Chairman, I don't want you to reason out your answer, but I would like to have your best memory.

Mr. COLSON. I don't have a—

The CHAIRMAN. Answer as best you can, Mr. Colson.

Mr. COLSON. When I was preparing for an appearance before the Special Prosecutor, I went all through my files and talked to other people, including my assistant, Mr. Cashin. Mr. Cashin told me that he advised me of the decision on the morning of March 25, the day that it was announced.

Mr. Harrison advises me that Mr. Cashin called him that day, and that was the first news he had of it. He was then Murray Chotiner's law partner.

On the other hand, as we have gone back through the logs, it is apparent that I met with Mr. Ehrlichman following the meeting that the President had with Mr. Ehrlichman and others late on the afternoon of the 23d when the decision was made to reverse it, and I thereafter met with Mr. Chotiner. I am clear that I did not tell Mr. Chotiner.

It is entirely possible, however, that Mr. Ehrlichman did advise me that the decision was either going to be changed or looked very good to be changed. Mr. Cashin indicates that when he told me on the 25th, I was pleased and didn't give any indication that I already knew it. So I can't tell you.

I think I had a pretty good idea that it was going to be from Mr. Ehrlichman, but I am not sure I really knew it officially.

Mr. ST. CLAIR. Were you aware of the congressional pressures for the increase?

Mr. COLSON. Yes, sir, very much so.

Mr. ST. CLAIR. In any event, did you at any time seek to confirm this commitment in advance of the announcement of the change?

Mr. COLSON. I don't believe I did, Mr. St. Clair. Mr. Chotiner, before he died, when we talked about this, never indicated I did, although we didn't probe this particular point. I don't recall doing it. I recall only being concerned with the dinner tickets at that point.

Mr. ST. CLAIR. I see.

Would you tell us, sir, if at any time during the course of your conversations with anyone representing AMPI, or AMPI, you indicated that there was a quid pro quo to be paid for their contribution?

Mr. COLSON. No, I tried as best I could to indicate exactly the reverse, and as a matter of fact, said exactly the reverse, and as a

matter of fact, reacted very angrily to Mr. Hillings' letter, when it laid out not so subtly a quid pro quo. But as I said before, I don't think it is ever possible to separate out of your subconscious your knowledge of their contributions.

Mr. ST. CLAIR. Well, aside from your subconscious, dealing, then, with your conscious, are you satisfied that you never said in any form of words that there would be a quid pro quo for the contribution?

Mr. COLSON. I am positive that I said exactly the reverse.

Mr. ST. CLAIR. I may have asked you this before, and perhaps I did, but did the President ever discuss with you the \$2 million commitment, so called?

Mr. COLSON. No, sir, he did not.

Mr. ST. CLAIR. Thank you.

Do you happen to know whether or not the President was even aware of the \$2 million pledge?

Mr. COLSON. He was not aware of it—well. It appeared in a—I wrote a briefing paper for a meeting that took place in September of 1970, when I took Mr. Parr and Mr. Nelson in for a photo opportunity with the President. That was just an occasion to have their picture taken with him. I did in the briefing paper to the President, I stated in the briefing paper that they had made a \$2 million commitment to the 1972 campaign, and I asked the President in that briefing paper to say something about it. I have subsequently seen the briefing paper, which is marked up in a way that Mr. Butterfield normally marked up papers that went to the President, which would lead one to believe that the briefing paper went to him. On the other hand, in the meeting, he never made any reference to it, and I remember being disappointed that he didn't at least say something to them to thank them for their support.

Mr. ST. CLAIR. That is, in the meeting with the representatives of the industry?

Mr. COLSON. That is correct.

Beyond that, I would have no way of knowing whether he was advised or not—not by me except for that briefing paper.

Mr. ST. CLAIR. And the President never discussed it with you?

Mr. COLSON. No sir.

Mr. ST. CLAIR. Would you have expected that if the President had been aware of this commitment, he would have discussed it with you?

Mr. COLSON. Well, the only reason—I would not have any way to answer that, Mr. St. Clair, because the President rarely—I don't think ever—well, the only times the President ever discussed political contributions with me was when someone might come in that he had known in years past and he would say, "I remember so and so, he was a great guy; back in 1966, when no one was helping us, he gave us a contribution for \$10,000." He would remember that.

But those were—particularly, he would just be reminiscing about old times. I don't ever remember him talking about any contributions regarding the 1972 campaign, so I don't think he necessarily would have discussed it with me.

On the other hand, the briefing papers, the President normally was very good about following my suggestions in a briefing paper. He did not on September 9, or whatever the date was of the 1970 meeting.

MR. ST. CLAIR. You say that you don't recall the President ever discussing contributions, campaign contributions, with you relative to the 1972 campaign, is that correct?

MR. COLSON. I can't think of any occasion when he discussed any contributions for the 1972 campaign.

MR. ST. CLAIR. Did he ever discuss with you his role in the 1972 campaign?

MR. COLSON. The President's role?

MR. ST. CLAIR. Yes.

MR. COLSON. Yes, sir.

MR. ST. CLAIR. On one occasion or more than one occasion?

MR. COLSON. Well, on many occasions, we talked about—you mean his role in terms of his own campaign?

MR. ST. CLAIR. Yes.

MR. COLSON. Yes, many times.

MR. ST. CLAIR. Over what period of time?

MR. COLSON. Oh, I would guess beginning—once in a while, we'd talk about it as early as 1971. I know beginning in 1972, we had a few times when we could talk about it, although he was involved in other things. Around the summer of 1972, we began to talk about it regularly—in other words, where he would make his appearances, what he would do in the campaign, and did it quite frequently in the fall of 1972, during the campaign itself.

MR. ST. CLAIR. Did he ever talk to you about his participation in the decisions relative to the campaign?

MR. COLSON. Well, that is a very broad question.

MR. ST. CLAIR. Well, I will withdraw it, then.

You told us yesterday that he complained on more than one occasion about the organization of the committee.

MR. COLSON. Yes, sir.

MR. ST. CLAIR. The fact that they had too much money and so forth?

MR. COLSON. Yes, sir.

MR. ST. CLAIR. During the course of those conversations, did he ever indicate to you a dissatisfaction with his own role in the campaign?

MR. COLSON. Yes.

MR. ST. CLAIR. Did he mention this to you on more than one occasion?

MR. COLSON. After the Watergate break-in, he mentioned it on many occasions.

MR. ST. CLAIR. Can you fix the time of any one of those conferences or conversations?

MR. COLSON. I can't give you a precise date, but I would guess it started on the 19th or 20th of June. But he expressed dissatisfaction with the organization of the Committee for the Reelection, expressed some chagrin that he had not gotten himself more involved in the campaign, that he had not been able to do so because of the various foreign policy matters that he had been handling—Vietnam, China, the summit trip.

I remember one occasion, I think it was late in the summer, when something happened, something else happened at the committee and he was very unhappy that he had not personally had time to get more involved in the campaign.

Mr. ST. CLAIR. During this period of time, while we are on the subject matter—and by this period of time——

Mr. COLSON. Just a moment.

Mr. SHAPIRO. Sorry.

Mr. COLSON. Sorry, go ahead.

Mr. ST. CLAIR. That is perfectly alright. Have you finished?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. During the period, while we are on the subject, following June of 1972 up through March of 1973, approximately what, 10 or 11 months?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. What matters were you involved in other than the matters here being discussed, such as Watergate, working with the President? The principal matters?

Mr. COLSON. Well, we had some serious economic problems on meat prices, on the administration of phase III of the economic program.

Mr. ST. CLAIR. Were you involved in that?

Mr. COLSON. Yes sir, very much so.

The President involved me regularly in most of the matters that he was concerned with in terms of ending the war in Vietnam. I can remember a number of meetings with him in September of 1972 when the negotiations in Paris were proceeding and taking a lot of the President's time in terms of his directing Dr. Kissinger.

Mr. ST. CLAIR. Very briefly, what was your function?

Mr. COLSON. The President would consult with me about how best to handle some of the matters and how best to address them publicly. At that point, he was using me as a person he would talk over his own evaluation of the various problems. For example, in December of 1972, I spent almost every day with the President during that month dealing with the handling of the very difficult decision he had had to make to resume the bombing of North Vietnam and then the negotiations when they resumed, and then the, on the various announcements that had to be made, the President used me as someone he would talk to about those kind of problems. And he was spending a great deal of time all through January in terms of the ending of the war, the final negotiations leading to the announcement on January 23, and then the negotiations for the release of the prisoners.

Mr. ST. CLAIR. And what period of time was covered by the negotiations for the release of the prisoners?

Mr. COLSON. About 3 weeks.

Mr. ST. CLAIR. Did you participate to any extent in those decisions?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Were there any other major areas of your involvement?

Mr. COLSON. Well, in that time, December and January, we were trying very hard to get as much congressional support as we could, because if you may remember, that was the time that the Congress was talking about cutting off funds and it was at the very tail end of the last round of negotiations with the North Vietnamese in Paris. I was working hard to try to keep as much domestic support as possible in order to enable the President to do what he had to do through Dr. Kissinger to bring the war to an end.

I would guess in December and January, that was almost all that the President really was dealing with. And in November, we had spent a lot of time—I had spent a lot of time with him in terms of reorganizing the second term Cabinet.

This was a very busy and decisive time in terms of foreign policy issues, in particular, ending the war.

Mr. ST. CLAIR. And if you know, did other principal aides of the President also participate in these projects?

Mr. COLSON. Mr. Haldeman and I, beginning in—oh, early—well, early 1972, mid-1972, would kind of deal interchangeably with the President on this especially when Dr. Kissinger was away, the President would like to have one person that he could just sit and talk through his problems with. I don't know that I had any particular expertise, but I was like the dog that you could talk to and kind of talk your problems out. Bob Haldeman and I worked that way with him interchangeably.

Mr. ST. CLAIR. During the period February and March, were there any major matters then under consideration?

Mr. COLSON. Early February was, of course, the period when the prisoners, the release of the prisoners was then being negotiated, the removal of the mines from Haiphong Harbor, all of the final details of ending the war, of course. In mid-February, I left for a trip abroad myself, so I was not physically there.

Mr. ST. CLAIR. Were you involved in these matters as well?

Mr. COLSON. To the extent that the President would talk them through with me, yes, sir.

Mr. ST. CLAIR. And were the other principal aides, Mr. Haldeman and Mr. Ehrlichman, also involved?

Mr. COLSON. Not Mr. Ehrlichman. I think he was kind of involved independently in his own domestic programs, and both—one reason that I spent a lot of time with the President on these matters in December—November, December, and January—is that Bob and John were trying to restructure a rather massive reorganization of the Government itself in terms of the proposals that they had. I guess OMB—it was not the Ash commission—yes, there were proposals then underway for significantly altering the organizational relationship within the Government.

Mr. ST. CLAIR. And were these the subject of extended discussions with the President by Mr. Haldeman, Mr. Ehrlichman, and yourself?

Mr. COLSON. Through the month of November, we spent a great deal of time at Camp David on this, yes, sir.

Mr. ST. CLAIR. Well, did you have any difficulty in obtaining access to discuss any matters of significance with the President?

Mr. COLSON. No, I did not.

Mr. ST. CLAIR. Did you have to clear everything with Mr. Haldeman before you could see the President?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Were you aware from time to time of complaints that people were delivering information to the President through Mr. Haldeman that never got delivered?

Mr. COLSON. That was a frequent complaint of members of the staff, that things would go to Bob and they would not get beyond him to the President.

Mr. ST. CLAIR. And that, you say, was a frequent complaint?

Mr. COLSON. Yes, sir. That is just, I think, typical of any staff system. The chief of staff blocks a lot of things and the staff resent it.

Mr. ST. CLAIR. You would look upon this, then, as a normal staff function for someone in the position of Mr. Haldeman?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Namely, to filter out what's submitted and blocking some things and letting other things go through?

Mr. COLSON. Yes sir, based on my experience, a great deal was filtered out. I didn't have that problem, because I had direct access to him, but very few other people on the staff had that relationship.

Mr. ST. CLAIR. Would you have felt that it was, that Mr. Haldeman would have been properly performing his duties if he simply related everything that came to him in turn to the President?

Mr. COLSON. I don't think he would be physically able to do that. The President just didn't have that kind of time.

Mr. ST. CLAIR. Are you satisfied, then, that anything that came to Mr. Haldeman's attention did not necessarily come to the President's attention?

Mr. COLSON. Clearly, not everything that came to Mr. Haldeman would go to the President, that is right. That would be Mr. Haldeman's judgment and in my case, it would be my judgment of what I thought was appropriate, if it happened to be coming through my staff, of what I thought the President needed to deal with, or should deal with.

Mr. ST. CLAIR. That is, you also engaged in the filtering out process?

Mr. COLSON. Considerable filtering out.

Mr. ST. CLAIR. So that you are clear that if there was something that Mr. Haldeman did not want the President to know, he had sufficient control over what went in to the President so that he could block it out?

Mr. COLSON. Generally. Generally speaking, that would be true, although Dr. Kissinger had, of course, direct access and could pretty well get anything he wanted in. John Ehrlichman often could. I could. But beyond that, it would be pretty much stopped there if it came from some other channel, yes.

Mr. ST. CLAIR. Other than those exceptions, then, everything would go through Mr. Haldeman's desk before it was taken up with the President?

Mr. COLSON. Yes, and he had a practice of asking for copies of anything that went in, even from Mr. Ehrlichman or Dr. Kissinger or myself, so he pretty well knew what was going in.

Mr. ST. CLAIR. Now, sir, directing your attention to the so-called Plumbers, when did you first learn of the organization of this group?

I am sorry.

Mr. COLSON. Go ahead.

The first time I heard of the organization of the Plumbers, it was not known as the Plumbers, it was known as the Room 16 Unit. I think it was first known to me as the special—a special unit. Mr. Ehrlichman advised me that the decision to create the special unit was made by the President at a meeting with the President in San Clemente. I think Mr. Ehrlichman advised me sometime between the 15th or 17th of July, and the latest it would have been was the 20th of July 1971.

Mr. ST. CLAIR. What did you understand was its function for which it was organized?

Mr. COLSON. Well, it was explained to me by Mr. Ehrlichman and then amplified, the explanation was amplified by Mr. Krogh when I met with him on July 22, that it was to be a sterile operation, with very secure phones, with special access permits, that it was to be located in a cordoned off area of the basement of the Executive Office Building. Special passes would be required of this. It was given all the accouterments of a very secure national security operation. I understood that it was to continue the investigation that had been made into the Pentagon Papers' leak, the people involved, and generally into the question of leaks of classified information as well as a general project of declassification of certain documents.

Mr. ST. CLAIR. Was the activity of this group limited to Ellsberg, if you know?

Mr. COLSON. No, it was not.

Mr. ST. CLAIR. Did it, if you know, engage in other activities involving national security matters?

Mr. COLSON. My understanding at the time and my knowledge now, of course, is that it did.

Mr. ST. CLAIR. With respect to the Ellsberg matter, you testified that you prepared a release on Mr. Boudin sometime in 1971?

Mr. COLSON. No, the——

Mr. ST. CLAIR. Or, rather, it was prepared for you?

Mr. COLSON. Well, it was prepared by Mr. Hunt, sent to Mr. Ehrlichman, who in turn transmitted it to me for me to release to the press.

Mr. ST. CLAIR. And you did release it to a reporter?

Mr. COLSON. I did give it to a reporter; yes, sir.

Mr. ST. CLAIR. As I understood your testimony yesterday, however, the reporter did not use it?

Mr. COLSON. He has filed an affidavit with the Senate Select Committee in which he said he used it, I think he said as a source document, but did not use it as——

Mr. ST. CLAIR. It was not reprinted, in other words?

Mr. COLSON. No, it was not used for several months, and then it was in connection with another story that he printed.

Mr. ST. CLAIR. This was turned over to him sometime in 1971?

Mr. COLSON. I think the date——

Mr. ST. CLAIR. Approximately.

Mr. COLSON. August 26.

Mr. ST. CLAIR. Of 1971?

Mr. COLSON. 1971.

Mr. ST. CLAIR. Do you happen to know or recall when the *Ellsberg* case was finally dismissed?

Mr. COLSON. Late April or early May of 1973.

Mr. ST. CLAIR. Two years later?

Mr. COLSON. Almost—20 months.

Mr. ST. CLAIR. Now, sir, you mentioned during the course of your testimony that Mr. Ellsberg had been making statements and/or speeches during the summer of 1971.

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Did you have personal knowledge of these?

Mr. COLSON. I think I—I know I was aware of a couple of speeches he made when he came to Washington.

Mr. ST. CLAIR. What was the tenor of those speeches?

Mr. COLSON. They were strident antiwar, antiadministration, against the President's Vietnam policies.

Mr. ST. CLAIR. This was again in 1971?

Mr. COLSON. It seems to me that I do recall one in August of 1971. I think there were—I know there were several through that period. I generally would read it in the news summary, but I remember one leaflet that was sent to me that related to a rally that he was holding in Washington in that period; yes, sir.

Mr. ST. CLAIR. Did the President ever express to you a concern that Mr. Ellsberg might become sort of a folk hero of some kind?

Mr. COLSON. I don't think those were the President's words so much as they were mine. I think he was concerned that he would become a martyr. He was concerned that he would be a rallying point. He had gotten a lot of national publicity at that point for his role in the Pentagon Papers release—tremendous national publicity. I think Dr. Kissinger, the President, myself, John Ehrlichman—we were all very concerned that——

Mr. ST. CLAIR. Why did this concern you? I'm sorry I cut you off. I'm sorry.

Mr. COLSON. Well, mid-1971, you have to remember that we had a tremendous outburst of domestic turmoil following the Cambodian operation in 1970. In the spring of 1971, the war was winding down, the casualties were down, the Laotian operation kind of brought public attitudes back a little bit, excited the public again a little bit more. But in the summer of 1971, when all of this was going on, there had been kind of a quieting of attitudes and a calming of feelings over the war as it was gradually deescalating and Dr. Ellsberg's actions threatened to turn it into a red hot issue again at a very time when Dr. Kissinger was engaged in the most sensitive negotiations in Paris trying to end the war. It just was a very—it was a time when we were trying very hard to keep public support for our policies, because that was crucial to, in our view at that time, to the North Vietnamese accepting the peace proposals that we were advancing through Dr. Kissinger in Paris.

Mr. ST. CLAIR. And as I understand it, you have said that the President at that time urged you to get out or release derogatory or unfavorable information concerning Mr. Ellsberg?

Mr. COLSON. Well, I get hung up on the word "derogatory." I think the word I used when I was sentenced and when I took my plea was "damaging" information, but as I clarified it in the Ehrlichman trial, not untrue information.

Mr. ST. CLAIR. I was going to ask you that. Were you ever asked to put out anything that you believed not to be true?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. For what purpose did the President indicate he wanted you to do this?

Mr. COLSON. My impression, Mr. St. Clair, is that the purpose was to try to offset the impact that Dr. Ellsberg was having publicly in terms of reraising all the passions over the Vietnam war and to let

the public know what his motives were and why he was doing it, if we found that out, and who he was acting with and why, because that would affect the credibility of Dr. Ellsberg's point of view. He had been a very, very strident hawk on Vietnam until 1969.

Mr. ST. CLAIR. May I have just a moment, Mr. Chairman?

The CHAIRMAN. Please do.

Mr. ST. CLAIR. Did the President ever express—I'm sorry.

Did the President ever express the desire on his part that you do anything that would prejudice the trial of Mr. Ellsberg, or Dr. Ellsberg?

Mr. COLSON. No, sir; he never said anything to that effect.

Mr. ST. CLAIR. Was there some concern that perhaps others might adopt the same role that Dr. Ellsberg had adopted for himself?

Mr. COLSON. That was one very major concern, that it would start a flood of leaks by others who might follow Ellsberg's example.

Mr. ST. CLAIR. And indeed, around this time, were there any number of serious leaks?

Mr. COLSON. There was in the end of July a leak which was very serious in that it exposed the fact that there had been two levels of negotiation with the Soviet Union for the strategic arms limitation agreement, and that it made the position of our negotiating team that was then negotiating almost impossible, because it disclosed important the first time that that was all window dressing and that the real negotiations were going on at a higher level than Mr. Smith and his negotiating team were conducting.

Mr. ST. CLAIR. Did the President ever express concern to you over this leak?

Mr. COLSON. I am trying to remember when we talked about it directly. I know I was very much aware of his concern over it and I think we did discuss it in the latter part of July, yes sir.

Mr. ST. CLAIR. If you know, were the plumbers, was the organization that became known as the plumbers active in connection with that and other national security leaks?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Not just Ellsberg?

Mr. COLSON. Correct.

Ms. HOLTZMAN. Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. I object to the question. I don't believe there has been any evidence that the Ellsberg was a national security matter and I think the question assumes that. I will therefore object to it.

Mr. LATTI. Mr. Chairman, I would like to be heard on it.

The CHAIRMAN. Mr. Latti.

Mr. LATTI. We have before this committee an affidavit that is filed in Federal court—I don't know what page it is in but the staff could get it by just looking at it—which indicates to the contrary.

The CHAIRMAN. The objection is overruled.

Mr. ST. CLAIR. So that I won't leave the matter, may I ask you this: Did the President consider, if you know, the leaking of the Pentagon papers to be a national security matter?

Mr. COLSON. Very definitely so.

Mr. ST. CLAIR. Did you?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. To your knowledge, did Dr. Kissinger?

Mr. COLSON. More so than anyone.

Mr. ST. CLAIR. And did the investigation of the circumstances with respect to the release of those papers, in your view, constitute a national security matter?

Mr. COLSON. Yes sir, based on everything I knew from the President and Mr. Ehrlichman—and Dr. Kissinger.

Mr. ST. CLAIR. And were the same people involved in that matter involved in investigation of other leaks?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Now, sir, with respect to the Fielding break-in, so-called, there is apparently some confusion about your testimony of yesterday. Would you tell us whether or not, first, the President told you that he authorized the break-in at the Fielding, Dr. Fielding's office?

Mr. COLSON. No, I never discussed with the President at any time, to my knowledge, the break-in at Dr. Fielding's office.

Mr. ST. CLAIR. Your testimony yesterday was based, then, on what Mr. Ehrlichman said to you that the President had said to someone, is that right?

Mr. COLSON. In April of 1973, my, the statement I made yesterday, which I gather has caused some confusion in the press, was Mr. Ehrlichman told me that, as I stated in my affidavit that I filed in the Federal district court on April 29, Mr. Ehrlichman told me that he had been present when the President called Mr. Petersen and said that he had approved the Ellsberg operation after consultation with J. Edgar Hoover. That was on April 18 or 19 that Mr. Ehrlichman told me that he had been present when that conversation took place. The words were, and I can't make them any clearer, "Ellsberg operation."

Mr. ST. CLAIR. Did Mr. Ehrlichman say to you that the President ever said to either him or anyone in his presence that the President had authorized the break-in at Dr. Fielding's office?

Mr. COLSON. No sir.

Mr. ST. CLAIR. Were you aware that the President had organized the so-called plumbers unit to investigate into the Pentagon papers matter?

Mr. COLSON. Yes sir, I was aware of that.

Mr. ST. CLAIR. Did the President ever indicate to you in the course of your conversations that he had prior knowledge of the Fielding break-in?

Mr. COLSON. No sir, we never discussed it.

Mr. ST. CLAIR. May I have just a second, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. ST. CLAIR. Now, sir, may I direct your attention to the Watergate matter? First with respect to your relationship with Mr. Hunt, it is quite clear that you sponsored his employment at the White House, as I understand it, is that right?

Mr. COLSON. I recommended Mr. Hunt for the position that he was hired for, yes, sir.

Mr. ST. CLAIR. And you told us that you had at least two conversations with Mr. Bittman, his counsel, in which you said that you would

be personally prepared to do anything you could to help him, or words to that effect?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And in fact, did you undertake to help Mr. Hunt? Specifically, did you write a letter, for example, to the probation office on his behalf?

Mr. COLSON. Yes; I wrote a lengthy, five- or six-page letter to the probation officer as part of the pre-sentencing report of Mr. Hunt, in which I very strongly recommended that Mr. Hunt be, his sentence be mitigated or that he be given whatever leniency was possible in view of his own history in terms of serving many years honorably and in terms of his personal circumstances. I did have one conversation with the President, as I indicated yesterday, in which I expressed simply great personal compassion for Hunt, as I testified yesterday.

Mr. ST. CLAIR. Incidentally, has Mr. Hunt been sentenced, to your knowledge?

Yes, he has, hasn't he?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. I'm sorry.

With respect to your relationship with Mr. Dean, how would you describe it? Commencing, let's say, in June of 1972.

Mr. COLSON. You mean a personal relationship?

Mr. ST. CLAIR. Yes, how would you describe your relationship?

Mr. COLSON. I think it was very good. I don't know that it's relevant to get into personal characterizations. I thought he was a fellow who was trying to do his job. I relied on him for advice on all Watergate matters. I assumed he was doing his job properly.

Mr. ST. CLAIR. Did there come a time when you had some reservations concerning Mr. Dean's role in the Watergate matter?

Mr. COLSON. Well, the first—yes, sir, the first reservation I had was—I should have had one earlier, but I didn't. The first reservation I had was on January 3, when Mr. Bittman said to me that he understood—and he didn't tell me the source of this, but he understood that Mr. Dean had been present at meetings at the Attorney General's office prior to the Watergate break-in at which electronic eavesdropping was discussed.

Mr. ST. CLAIR. Do you recall the conversation in which Mr. Hunt listed off the possible targets that might have some problems?

Mr. COLSON. Mr. Hunt listed off what—

Mr. ST. CLAIR. Yes, do you recall a conversation with Mr. Hunt in which he suggested that a number of people might have some problems if his demands weren't met, or words to that effect?

Mr. COLSON. Oh, you mean Mr. Shapiro's conversation?

Mr. ST. CLAIR. Yes.

Mr. COLSON. I didn't have a conversation with Mr. Hunt.

I don't know that I knew it in detail at the time. I remember that Mr. Shapiro told me after he had met with Mr. Hunt on March 16 that Mr. Hunt said that I was not involved in anything.

Mr. ST. CLAIR. Do you recall that Mr. Dean was one of those persons that Mr. Shapiro reported to you might have some problems?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Do you recall on occasion discussing your idea of a special counsel being appointed by the President to take charge of this matter.

Mr. COLSON. Yes, I first proposed that to the President on March 21.

Mr. ST. CLAIR. Did you ever discuss that with Mr. Dean?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Can you fix the time.

Mr. COLSON. March 22.

Mr. ST. CLAIR. Of 1973?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. What response did Mr. Dean make to your suggestion that the President ought to get another lawyer from the outside to represent him in this matter?

Mr. COLSON. I had—I was in Mr. Dean's office on the afternoon of March 22 and I told him that I would prefer, since I knew he would eventually hear it indirectly, I would rather have him hear it from me face to face. I said to him, last night, I recommended to the President on the phone that he appoint a special counsel and relieve you, John, and there is nothing personal in it, but I think, you know—I don't want you to take it personally, but I think the President needs a top flight lawyer to come in now and help him out.

Dean said, that would never work. The only way it would work is if the man were to report to me.

I said, that isn't exactly what I had in mind. I had in mind someone taking over from you. And Mr. Dean said that would not be any good.

Mr. ST. CLAIR. Did Mr. Dean say to you why he felt that whoever was appointed should report to him?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Did he ever indicate in any form of words that he wanted to retain some control over what was going to be done in connection with the Watergate matter?

Mr. RANGEL. Mr. Chairman, I ask that there be a limit to the degree of leading on this questioning. I have been patient—

Mr. ST. CLAIR. I will withdraw the question. I think the objection is well taken. I'm sorry.

In any event, Mr. Dean indicated that it would only work if whoever was appointed would report to him, is that right?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And that was on March 22?

Mr. COLSON. Late in the afternoon of March 22.

Mr. ST. CLAIR. Now, you told us about a conversation you had with the President on the evening of March 21, do you recall that?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. During the course of that conversation, did the President say anything to you about his authorizing a payment to Hunt of any kind?

Mr. COLSON. No sir. I don't recall any discussion to that effect.

Mr. ST. CLAIR. And this is on the evening of March 21st?

Mr. COLSON. Yes, sir.

Mr. WALDIE. Mr. Chairman.

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. May I ask counsel from what the witness is refreshing his recollection?

Mr. ST. CLAIR. I don't know. I will inquire.

It is apparent, sir, that you are reading from some document. Could you tell us what document that is?

Mr. COLSON. I have before me, Congressman Waldie, a draft statement that I had prepared for use at the Senate Select Committee had I been able to testify during their hearings, and it just is useful to help me as a recounting of dates.

The CHAIRMAN. Approximately when was that prepared, Mr. Colson?

Mr. COLSON. That was prepared in June or July of 1973, when I was preparing to go to the Ervin committee.

Mr. WALDIE. Mr. Chairman, I wonder if we might have a copy of that. That would seem to me to be quite reflective of the witness' recollection as of that date, which is a significant date.

Mr. COLSON. You have had that—the committee has had copies of that.

Mr. WALDIE. Do we have copies? I address our counsel.

Can you give us a citation where that is, counsel?

Mr. JENNER. We do have a copy, and Mr. Chairman, if the committee desires a copy of it, we will duplicate it and submit it to the committee.

The CHAIRMAN. Yes, I would think it would be good.

Mr. ST. CLAIR. I would agree, Mr. Chairman.

Mr. COLSON. I would like, Mr. Chairman, if I may, as long as it is going to be part of your formal record, to just make one point, that it was a draft and clearly marked a draft and was never put in final form. We delivered one copy to Mr. Dash prior to my testimony, but on the understanding that it was a draft. I think it was delivered here, but everybody understands that this was a draft of my testimony. I don't think the facts have varied at all, but I just want to be sure that is clear.

The CHAIRMAN. Well, I'm sure it will speak for itself as such.

Mr. ST. CLAIR. Perhaps we should mark it as the next exhibit and make it part of this record.

The CHAIRMAN. I don't know what number we are into now. It must be about 24 or something.

Mr. JENNER. Twenty-four, Mr. Chairman.

Mr. DANIELSON. Mr. Chairman, point of order.

The witness has not testified to this statement. It would be burdensome for the members of the committee at this time to prepare to cross examine him upon it. I object to it being included in the record as an exhibit. It is strictly something foreign to the proceeding here. No other witnesses have submitted these prefabricated statements.

I feel that it is not relevant, it is not competent. I therefore object.

Mr. COHEN. Mr. Chairman.

Mr. HOGAN. Mr. Chairman, I object to the characterization of prefabricated.

The CHAIRMAN. Well, the Chair will rule that because of the fact that the witness has stated and he is under oath, that this is a draft of notes that he made at that time as an aid, I don't believe that it is going to do other than to serve usefully for the committee to have it.

Mr. DANIELSON. May I inquire, Mr. Chairman, does the witness swear, does he include within his oath the factual representations in this statement and represent that they are true?

The CHAIRMAN. He has stated that it is a draft.

Mr. SHAPIRO. Mr. Chairman, may I be heard on this issue?

The CHAIRMAN. Counsel.

Mr. SHAPIRO. The document is clearly intended to be a draft. It does not contain all of the materials about which Mr. Colson has testified or has been interviewed by your staff. It is, in part, somewhat sketchy. It is in part, perhaps, inaccurate in a place here or in a place there with regard to dates, as we have discovered on later occasions.

Mr. WALDIE. Mr. Chairman, I am going to object—

Mr. SHAPIRO. I would object to it being introduced.

Mr. WALDIE. I think if it is going to be described for the record, the witness ought to describe it and then counsel can put in his objection.

Mr. SHAPIRO. Well, I am objecting.

Mr. WALDIE. Unless counsel prepared it and then I think counsel ought to be directed —

The CHAIRMAN. Let counsel complete his objection.

Mr. SHAPIRO. I feel that you do have the witness here. It is available to you. It has been available to your staff for examination for some time. I would not like to have the document introduced as an exhibit and I would prefer that as long as the witness is here subject to examination, he be cross-examined on the basis of his testimony submitted under oath and not on the basis of a document which he, himself, describes as a draft and as an aid in terms of refreshing his recollection and particular points of testimony. I state my objection.

Mr. CONYERS. Mr. Chairman.

The CHAIRMAN. Let counsel finish his statement.

Mr. DANIELSON. He interrupted me, Mr. Chairman.

The CHAIRMAN. I know.

Mr. DANIELSON. I would like to make my statement.

I am referring from the gentleman's statement, Mr. Shapiro's statement, that he himself does not want this included as an exhibit, as a part of the witness' testimony, and I can only infer that he would not choose to have this included within the scope of the witness' oath, which simply bears out my point that I do not—I very vigorously object to it being included as an exhibit.

Mr. LATTI. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. Mr. Chairman.

Mr. DANIELSON. I yield back.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. I would like to strongly support the gentleman from California, Mr. Danielson's contention and urge that the suggestion made by Mr. Waldie was a very constructive one, namely, that the members have this draft statement prepared at some earlier time before conversions and whatever for their information and usefulness. It has no relevance, it seems to me, as being included as an official exhibit in our hearings and I urge that the chairman not do that.

Mr. LATTI. Mr. Chairman.

Mr. WIGGINS. Mr. Chairman, before you rule, would you yield to me, please.

The CHAIRMAN. Mr. Wiggins.

Mr. WIGGINS. Mr. Chairman and members of the committee, we should understand that the document to which Mr. Colson has referred is already in large part in our evidentiary material. It is included in a half a dozen or more places in our evidentiary material, and to refresh recollection, it is that document which begins—

Opening statement of Charles W. Colson before Senate Select Committee on Presidential Campaign Activities, U.S. Senate.

In each case that cover sheet was included in our evidentiary material, and then thereafter certain select portions being relevant to this committee have been repeatedly included. This is the first opportunity we have had to have the entire statement in our record, and clearly, Mr. Chairman, if we are going to introduce and have introduced portions of it, it would be only appropriate to get the whole document before us.

Mr. LATTI. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Mr. Latta.

Mr. LATTI. I would hope that the gentleman from California would ask unanimous consent to strike from the record his poor choice of words, the fabricated—

Mr. DANIELSON. I decline respectfully.

Mr. LATTI. Then I would like to ask the gentleman a question as to what basis he has for that characterization?

Mr. DANIELSON. Well, it was—

Mr. CONYERS. Regular order, Mr. Chairman.

Mr. DANIELSON. It was put together I believe in March of 1973 which is now more than a year past, and that had an earlier date, which is the meaning of prefabricated.

Mr. LATTI. That is the only meaning you put, putting the date prior?

Mr. DANIELSON. I suggest that the gentleman let his imagination wander.

Mr. LATTI. Not the truth or falsity of it? I just object to that kind of characterization.

Mr. COHEN. Mr. Chairman?

The CHAIRMAN. Mr. Cohen.

Mr. COHEN. Could I make a request pertinent to your ruling in this matter? Could I request that the committee be furnished, within a very short period time, a copy of this document? I have segments of it which I have extracted from my own tabs to bring here, but I have never seen a complete statement put together, and I think it would be very helpful for our purposes in examining, in examining Mr. Colson on this matter that at a minimum, whether it is a part of the record, that we at least have a copy before us to be done within the next half an hour or so. Can I yield to the gentleman from California?

The CHAIRMAN. Might I hear from our counsel as to what he has in the record or what he received during the course of interviews that can shed light on this document?

Mr. JENNER. Mr. Chairman, we have had the documents for some time, as several of the members have pointed out, and have used part of it in the presentation. It will be very easy to duplicate 50 copies and have the copies for the committee oh, within 45 minutes, and I can call the staff. I must say to you, Mr. Chairman, and all of the members of

the committee, that I have no objection to it being made an exhibit and made a part of the record under the circumstances now brought out.

Mr. HUNGATE. Mr. Chairman, can we hear from Mr. Shapiro again as to his reasons?

The CHAIRMAN. Mr. Shapiro.

Mr. SHAPIRO. Let me just say this: The document purports to be precisely what it purports to be; namely, a draft statement, and not Mr. Colson's statement under oath. And that is what I am concerned with. If it is accurately described, and it is recognized that there may be in certain instances an inaccuracy here or there which we have subsequently discovered, I have no objection to it being introduced on that basis. I do not want to be in the position, the witness is here under oath, and I want to be very careful with regard to his testimony.

The CHAIRMAN. May I ask whether or not the witness has had an opportunity prior to this to examine that document of his before referring to it as he has been doing in the last 2 days?

Mr. COLSON. Well, I have been using it, Mr. Chairman, as just a working paper that helps me to pinpoint dates and times and places. Certainly when I prepared it I prepared it from the very best of my recollection at the time I prepared it. I was getting ready to go before the Ervin committee and testify under oath as to everything I knew at that time. Obviously, that's a year ago, and I have learned a lot more since, and a lot of facts that maybe were looked upon one way then, and in the light of everything I know now are going to look slightly different.

I haven't gone back to see if every statement is absolutely accurate. It was accurate at the time I prepared it, and most of, much of what I have testified to is identical to what is in this document.

Mr. EDWARDS. Mr. Chairman?

The CHAIRMAN. Your counsel objects to the inclusion of it.

Mr. COLSON. No. I think what my counsel was saying, Mr. Chairman, is he just wants it represented for what it is, and that is like anything else. I submitted to the committee voluntarily last week a set of notes that I drew up in 1971 and in 1972, and that's what those are, and I just—I think he is just saying this should be characterized for what it is.

Mr. EDWARDS. Mr. Chairman?

The CHAIRMAN. Mr. Edwards.

Mr. EDWARDS. Mr. Chairman, I suggest we not overemphasize the importance of this matter. It is an informal document. It can be made an exhibit as an informal document. We are not going to nail Mr. Colson to the wall on anything that's in it.

The CHAIRMAN. I think under those circumstances we will accept the document as an exhibit, with that understanding.

Mr. SHAPIRO. On the basis of Mr. Edwards' suggestion, I withdraw the objection.

Mr. DENNIS. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. Now that the Chair has ruled, may we go back to the question which arose or caused all of this. The witness was merely using the document originally to refresh his memory, and I have sort of

lost the track of the question. I hope counsel will go back to it again and so we will know what he was talking about.

Mr. HUNGATE. Mr. Chairman, may I ask one further thing before he does that? How long is this document?

Mr. JENNER. Sixty-five pages.

Mr. COLSON. Sixty-some pages, double spaced, yes, sir.

Mr. HUNGATE. My concern was whether it would be possible within a reasonable length of time—obviously not now—for him to verify or make such amendments so that the document we had would be correct and accurate.

The CHAIRMAN. No, I don't believe that it's possible at this time to impose that condition on the witness, and I think that under the circumstances under which the document is being accepted, I think it will be sufficiently protective of the witness.

Mr. JENNER. Mr. Chairman, may I inquire please, Mr. Chairman, would you indicate to me so I can act accordingly whether we should undertake immediately to duplicate the document so the committee will have it?

The CHAIRMAN. Yes, of course.

Mr. ST. CLAIR. Mr. Chairman, that will bear what number? Do we know?

Mr. JENNER. Twenty-four.

The CHAIRMAN. Twenty-four.

[The document referred to was marked "Colson Exhibit No. 24" and follows:]

[Colson Exhibit No. 24]

OPENING STATEMENT OF CHARLES W. COLSON BEFORE SELECT COMMITTEE ON
PRESIDENTIAL CAMPAIGN ACTIVITIES, UNITED STATES SENATE

I appreciate the opportunity to present this opening statement to your Committee. I shall first attempt to the best of my recollection to recount my knowledge of the events surrounding the Watergate Affair.

I will also attempt, if I may, to give this Committee some insight into the mood and atmosphere which existed in the White House during the Nixon years. I have followed your proceedings to date; it is clear that you are seeking to determine not only what in fact happened, but why and how these things could have happened.

AS TO THE FACTS

I first heard that there had been a burglary at the Democratic National Committee headquarters on the radio. It was Saturday, July 17, 1972. I thought it was no more than an ordinary burglary—one more addition to the D.C. crime statistics. It was not until late that afternoon that I learned that more might be involved. John Ehrlichman called to inquire as to Howard Hunt's whereabouts. I explained that I had not seen Hunt in a couple of months, but that I believed that he was working at the Committee for the Re-election of the President. Ehrlichman informed me that one of those arrested had had something in his possession with Howard Hunt's name on it. He also asked me if I knew Douglas Caddy. I told him I knew only the name.

Ehrlichman explained that he was simply trying to determine the facts.

On Monday, June 19, I attended various meetings with Mr. Ehrlichman and Mr. John Dean. We were endeavoring to determine what Mr. Hunt's status was and when his service at the White House had been terminated. I do not recall the exact sequence of the meetings or the persons in attendance that day. I do recall specifically the following points:

1. We determined that my assistant, Richard Howard, had on March 30, 1972, advised the Staff Secretary to terminate Hunt's consultant relationship with the White House. A copy of Mr. Howard's memo was provided to your staff when I met with them for a preliminary interview on May 3 of this year.

2. We determined that Hunt's termination had not been handled routinely. At the time that he left the White House in March, Hunt asked whether he could change the survivors benefit election which he had made upon his retirement from the CIA a year earlier. Hunt's memo requesting the change had been submitted as an enclosure to the termination memo of March 30. This request was apparently sent by the Staff Secretary to the White House personnel or Civil Service office. When the decision was made on the request the file was apparently returned to the Staff Secretary. The Staff Secretary apparently failed to take steps to formally process Hunt's termination, such as the cancellation of his White House pass, the surrender of documents, etc.

3. We learned—to my surprise—that Mr. Hunt still maintained a safe in an office in the Executive Office Building. I suggested to Dean that he take custody of the safe. I was certain in my own mind that there would be an investigation if the facts established that Hunt had had any connection with the Watergate breakin. It was my view that the White House counsel had a responsibility to secure the safe and any other evidence. Contrary to Mr. Dean's testimony (TR 2169), I had had no communications from Hunt over that weekend; no one suggested that I remove anything from the safe. I never saw the safe nor was I aware of the contents of the safe. As a matter of fact, it was not until late June, after publication of a Scripps-Howard report that a gun and bugging equipment had been found in the safe, that I even made inquiry as to the safe's contents. I recall that Bruce Kehrli told me that a pistol had been found in the safe. I recall also that Mr. Dean told me that the News account was essentially inaccurate although he acknowledged that a pistol had been found. It was perhaps at that time or maybe on a subsequent occasion—I do not recall—that Mr. Dean told me that everything had been turned over to the FBI, but that everything was not in the possession of the FBI. I told Dean I could not understand what he meant by this curious comment. He told me to forget it. I did not pursue the question further. It was not until April, 1973 that I learned from published testimony what Mr. Dean had actually done with the contents of the safe.

4. During a discussion on Monday, June 19—which I believe took place in my office—John Dean told me that Mr. Hunt had "been ordered out of the country" or words to that effect. I exploded. I said something to the effect that "that is the dumbest thing I have ever heard; that could make the White House a party to a fugitive from justice charge." Mr. Dean then went to a telephone. I do not know who he called nor do I know who issued the original instructions to which Mr. Dean referred. Mr. Dean did tell me later that it was my reaction that caused him to countermand the original order.

5. The President called me from Florida the morning of June 19. As I recall, he asked me what I knew about what was going on. In this and in subsequent conversations, he was quite obviously angered and incredulous that anyone even remotely involved with the Presidential campaign apparatus could have engaged in such conduct. As I recall my initial conversations with the President, I merely explained that I had no idea what had happened. I do recall several discussions with the President during that and ensuing weeks in which he expressed great annoyance at the way in which the Committee for the Re-election was being managed.

He complained bitterly that he had himself not been able to devote any time to campaign matters or organization and that he believed it was overstaffed and overpaid. He expressed his long-held belief that it was inadvisable to staff a campaign organization with people primarily concerned with their salaries; he said people should participate in a campaign because they believe in their cause. He said that the Committee had too much money to spend, that the Watergate was an example of the kind of misguided enterprise that results from too much money. He told me on more than one occasion that he had ordered Mr. Haldeman to have the staff at the Committee reduced, to insure that no one was being paid more than they had made in prior employment and to get the management of the campaign and the Committee under tight control.

On Tuesday, June 20, 1972, the *Washington Star* carried a banner headline, "Colson Aide-Barker Tied." It was immediately obvious to me that the press would attempt to tie the Watergate into the White House on the basis of Hunt's former association with me. Accordingly, I immediately dictated a memo for the file detailing all contacts of any kind that I could recall having had with Hunt during the year 1972. A copy of that memo was provided to your staff during our meeting on May 3.

Although I knew that I had had no involvement in the Watergate, I believed that it might become important to have an accurate record.

One of the things mentioned in the memorandum was a phone call I had made to Jeb Magruder in early February while Hunt and Liddy were in my office. The memo states:

"... Hunt dropped by my office with Gordon Liddy, from the Committee. I believe this was in February, possibly early in the month, although my office records do not show the visit. Hunt said he was in the building and just wanted to talk briefly. Both he and Liddy said that they had some elaborate proposals prepared for security activities for the Committee, but they had been unable to get approval from the Attorney General. I explained that Mitchell would soon be at the Committee and that they should be persistent and see him because he was the only one who could authorize work they would be doing. I have a vague recollection that Liddy said, 'We (referring to Hunt and himself) are now over at the Committee working and we are anxious to get started but can't find anyone who can make a decision or give us the green light' or words to that effect. While Liddy and Hunt were in my office, I called Jeb Magruder and urged (him) them to resolve whatever it was that Hunt and Liddy wanted to do and to be sure he had an opportunity to listen to their plans. At one point, Hunt said he wanted to fill me in and I said it wasn't necessary because it was of no concern to me, but that I would be glad to urge that their proposals, whatever they were, be considered. There was no discussion that I can recall of what it was that they were planning to do other than the fact that I have the distinct impression that it involved security at the convention and/or gathering intelligence during the Democratic National Convention."

As I recall, the meeting lasted no more than five minutes. The event had no significance in my mind insofar as Watergate was concerned until I learned this year for the first time what the plan in fact involved and of the meetings involving Mr. Mitchell, Mr. Magruder and others.

On June 21, I suggested to Mr. Dean that I give a statement to the FBI. I believe if I were to give a formal, sworn statement as to my own lack of knowledge or involvement, the fact of having done so might help to stem the flow of adverse publicity. I do not know whether it was as a result of my request, but shortly thereafter, Dean told me to come to his office for an interview with two FBI agents. I was questioned in the presence of Mr. Dean.

On August 28, again accompanied by Dean, I gave a deposition to Mr. Silbert for the Grand Jury then investigating the Watergate matter. Prior to my testimony, I asked Dean what I should say if Mr. Silbert got into Mr. Hunt's activities while he was part of the "Plumbers" operation. He said, "You can't answer any questions in that area and if they are raised I will interpose an objection on national security grounds."

In reflecting upon my deposition later that day, I had the feeling that I had wandered somewhat in terms of the chronology of my contacts with Mr. Hunt. I got out my June 20 memorandum, read it, and sent a copy to Mr. Dean under a cover memorandum of August 29, along with file copies of certain travel vouchers that had been requested by the Department of Justice. Copies of these memos were delivered to your staff on May 3.

In my covering memorandum to Mr. Dean, I suggested that he send Mr. Silbert a copy of my June 20 memo. Sometime soon thereafter, Mr. Dean appeared in my office. I do not recall his precise words, but he said something to the effect that the memo "impeaches" Magruder and that I should destroy it and all file copies. I believe that he was holding the original of the memo in his hands. When I was interviewed by your staff, I told them that I thought he had given the original back to me. Apparently he did not since I note that he offered a copy to this Committee during his testimony.

I now realize that I should have attached some significance to Mr. Dean's conduct. I knew, however, that I had answered all of Mr. Silbert's questions fully: there was nothing in my June 20 memo inconsistent with what I had said to him. I had no idea at that time that there had been meetings prior to June 17 at which John Dean was in attendance and at which Watergate-type activities had been discussed. Hence, my February call to Magruder, described in my memo of June 20, did not strike me as particularly important. Had I known then what I subsequently learned, it would have been apparent to me that Mr. Dean might well fear that my memo would lead to other inquiries which in turn might have revealed his own involvement in at least discussions preceding the Watergate.

In any event, Dean was at that time handling the Watergate investigation for the White House. He was acting as counsel for each of us being questioned.

It never really occurred to me that I should do anything other than to follow his instructions; after all, he was handling the liaison with the Department of Justice and was the appropriate White House staff member—or so I thought—to make such decisions. Finally, the Watergate was still a campaign issue; criminal indictments had not yet been handed down. For these reasons, I did not challenge Dean's decision, but I did conclude that I would not destroy the file and did not do so.

I have departed from the chronology somewhat in order to explain—in sequence—the circumstances surrounding the June 20 and August 29 memos. On August 11, I received a letter dated August 9 from Howard Hunt. Consistent with my practice to give to John Dean everything and anything concerning the Watergate, I transmitted the letter to him. I also gave Mr. Silbert a copy of the letter during my Grand Jury deposition later that month and a copy was delivered to your staff on May 3.

I felt a great sense of compassion for Howard Hunt. I had known him for several years. I hoped against hope that he had not been involved in the Watergate. I wanted to believe that he had not been. I persisted in this hope even though, as I now recall it, John Mitchell mentioned to me in a discussion during the week following the break-in, that Hunt was in it "up to his ears."

It bothered me that I couldn't answer his letter because of my apprehension about having contact. A few days after receiving it, I asked my secretary, Mrs. Hall, to contact Hunt's lawyer to deliver the following message: that I had received his letter, but would be unable to reply, that I felt terribly for him, that when the election was over I hoped I could be in touch with him, that I hoped I could help him on a personal basis, that I hoped he was innocent, but that if he was involved, I was royally angry at whoever had used him and finally that I was sorry I had ever originally recommended him for his assignment at the White House.

Mrs. Hall came into my office one day to tell me that she had delivered the message, but that Hunt had told her several additional things. I told Mrs. Hall that I did not want to hear them because other than acknowledging his letter, I didn't want to be in communication. I told her, however, that if Hunt had said anything significant, she should report that fact to John Dean. Mrs. Hall's affidavit with respect to this matter was delivered to your staff during our May 3 meeting.

I also gave a deposition on August 30 in the Democratic National Committee civil suit.

My position throughout this period was that the Committee for the Re-election should determine whoever it was who was involved in the Watergate, make that known and lay out, for the public, all of the facts. I felt then that it would be better to get rid of it as an issue than to have it linger on in the campaign. My position in this regard was recently testified to by Van Shumway, then Director of Communications for the Committee for the Re-election. When, during his deposition on Monday, July 16, 1972, in the Democratic National Committee suit, he was asked about any conversations he had with me regarding Watergate, he said—and I quote:

"There was only one (conversation) and it probably would have been in July or somewhere in that time frame at a meeting. Mr. Colson felt very strongly or indicated to me that he felt very strongly that we should get all of the facts out on the Watergate matter and any involvement of any individuals in the campaign and that he felt that it was partly my responsibility to see that that was gotten together. I indicated to him in return that I shared his view and that I felt that I had done everything I could do to get these matters cleared up." (TR 82)

Late in October, my secretary, Mrs. Hall, told me she had received a call from Mrs. Hunt and that she was very disturbed by what Mrs. Hunt had said. Once again, I told Mrs. Hall that I didn't want to be in communication with Hunt and that she should immediately report the conversation to John Dean. She did so and the contents of her discussion with Mr. Dean are contained in the aforementioned affidavit.

It may be significant to make some observations with respect to the President's attitude during this period.

First, I was with the President when he discussed his order, I believe issued to Mr. Haldeman, that every member of the White House staff was to cooperate fully

with the FBI and with the Grand Jury and that anyone who refused to answer any questions or refused to cooperate fully was to be summarily dismissed. It was my clear impression throughout this period that the President was relying on Mr. Dean to enforce his instructions with respect to cooperation of members of the White House staff with Federal investigators. He knew that Mr. Dean was involved in the various interviews and would be the one White House staff member most familiar with all the facts.

I further recall one occasion when the President asked me to tell Mr. Dean that he, the President, wanted to be certain that the Committee's attorneys were pursuing vigorously whatever counter-actions might be legally available. Moreover, the fact that the Democrats were reaping a political windfall by way of the publicity was not lost upon us. I mention this not because there was any significance to the President's instructions as such; the fact that the President told me to communicate his instructions to Mr. Dean, however, is just one more indication that the President looked to Mr. Dean as the responsible White House staff member for all Watergate actions.

Secondly, during the campaign—on those few occasions when the President and I did discuss Watergate—he commented how relieved he was that no one in the White House had been involved. Mr. Dean testified, based on one conversation with the President on September 15 that he believed that the President was aware of the alleged cover-up. During this time the President never indicated in any conversation with me that he had *any* reason to think that any White House personnel had been involved: he was pleased that, as a result of Mr. Dean's investigation and the very extensive investigation by the Department of Justice, he had been advised that there was no White House involvement.

Some time after the election, I believe in late November, Mr. Hunt called my office and asked to talk to me. I did not take his call, but I believe I asked Mr. Dean whether I should talk to him. I wanted to do so out of personal friendship and sympathy. Mr. Dean told me I should. I do not recall the precise circumstances, but my secretary's recollection is that after talking with Mr. Dean, I asked her to communicate with Hunt's lawyer to advise Hunt to call again and I would talk to him. I decided, however, that I would have to record the conversation. I felt that any conversation with Hunt would have to be a matter of record. The transcript of the conversation has been provided to your staff and, I might add, was turned over to the Federal prosecutors in early May.

As you will note from the transcript, Mr. Hunt asked if he could send me a memo. I told him not to, that anything he sent me would have to be turned over to the Federal investigators. I did my best during the conversation to explain to Hunt that I did not want to be involved, that I was the principal target of press attempts to tie the Watergate to the White House. I tried to express my personal compassion to him as a friend, but at the same time discourage him from imparting any information. He, nonetheless, as you will note from the transcript, persisted.

Some of the things he said should have aroused more concern on my part. The fact is, however, that I was totally unaware of any of the post-Watergate activities that have been subsequently testified to. I did not know of Mr. Kalmbach's involvement or indeed of any fund raising for the defendants. I did not know of the Dean, Mitchell, Mardian, LaRue meetings, or the contacts between Mr. Dean and others with the CIA and FBI. I did not know of the reported meetings then going on with Messrs. Haldeman, Dean, Mitchell and Magruder. Had I then been aware of some of these things, Hunt's comments might have had more significance. I was, however, troubled by the very nature of the conversation and by Mr. Hunt's reference to commitments that had been made to him and to which I could only reply, "Okay, don't tell me anymore, I understand" or "I follow you, you've told me all I need to know." I assumed at the time that if indeed there had been commitments, these were commitments made by the Committee for the Re-election.

The plain fact is that I was anxious to get off the phone—I really didn't want him to tell me anything. I merely wanted to tell him how sorry I was for him and to explain why I couldn't talk to him. As a result, many of his comments just did not register with me then.

In any event, I immediately called John Dean to tell him that I was greatly troubled by the conversation, that if what Hunt said was true, he, Dean, had better damn well find out immediately what was going on, particularly as to what the people at the Committee for the Re-election were doing. I said I would

have a transcript made of the conversation and send it to him. Dean told me not to make a transcript but to send him the raw tape immediately. Sometime later that day or the next, Dean called to say that he would keep the tape, that I should do nothing further, that this was his responsibility and he would handle it. I assumed—obviously incorrectly—that Mr. Dean, was as eager to get to the truth of the Watergate as I was—and as the President was. I assumed if Mr. Dean found anything of importance in the conversation, he would act consistent with his responsibility.

I do not recall any other discussion during the month of November relating to Watergate.

Shortly after the first of December, the President was becoming increasingly involved with the problems of the deteriorating Paris peace negotiations. When the President made his difficult decision to resume the bombing of North Vietnam in December, he began to devote virtually every waking hour to the day-to-day military activity and the on-going diplomatic initiatives. The Vietnam issue was practically all-consuming in the month of December and through the first days of January. Almost all of my conversations and meetings with the President were related to this problem. I was also devoting a great deal of time to the efforts to reorganize and restaff the Administration.

The only Watergate-related events in December that I recall were as follows:

On the morning after Hunt's wife was killed, I called his attorney, Mr. Bittman, to ask that he convey my deepest sympathies to Howard. I told Bittman that I had known Howard and Dorothy, that I knew how much Howard relied on Dorothy, and that I was frankly worried that this tragedy, coupled with his other troubles, might cause Howard to commit suicide. I told Mr. Bittman there was nothing I could do but I hoped he would take a personal interest in Hunt's well-being. Mr. Bittman said that he knew Howard would appreciate my call and my feelings. I then wrote Howard a personal note.

I wrote him a second note on the day of Dorothy's funeral. I had intended to attend, but decided at the last moment I should not for fear of creating a new wave of adverse publicity for the White House. I have regretted my decision ever since; it was a cowardly act.

I also received a letter dated December 11, from Kevan Hunt asking my help in getting his mother's body buried at the Rosebud Indian Reservation. Dorothy Hunt was one-eighth Sioux Indian. Once again, I referred this letter to John Dean under a cover memo of December 13, 1972. Both Kevan Hunt's letter and my memo to Mr. Dean have been furnished to the Committee staff.

The other matter I recall in the month of December was when Mr. Dean asked me whether I had called General Cushman in 1971 when Hunt first came into the White House. I told him I had not. It was not until the publicity of recent months that I learned that the Department of Justice had asked Mr. Dean who had made the original call.

On December 31, Hunt acknowledged my two handwritten notes in a sad and moving letter, a copy of which was delivered to your staff in early May. I merely sent the letter to Mr. Dean on January 2 with a cover note, which Mr. Dean has already read into the record. The note says, "Now what the hell do I do?"

On January 3, I believe while I was in the White House Staff Mess having lunch, Mr. Dean called to say that he had to see me urgently. I saw him, I think in his office. He asked me to see Howard Hunt. I recall being annoyed by his request. For one thing, I was tired and overworked, having spent most of New Year's weekend at the White House on matters related to the resumed Vietnam peace negotiations and the President's announcements. Also, I was preparing to leave the staff in a matter of weeks and did not at that point want to become involved in *any* Watergate matters.

Dean told me that Hunt was in very bad shape, on the verge of cracking up and that I simply owed it to him to see him and reassure him of my continued friendship. I must also say that I was personally moved by Hunt's letter.

I told Mr. Dean I would have to think about it. At the same time Mr. Bittman was placing calls to my office, leaving messages that he wanted to see me. As I recall, I called Dean an hour or two later. I told him I would not see Mr. Hunt, but that I would, as Mr. Hunt had asked in his letter, see Mr. Bittman. I said I could not do it that day, that I was too busy, but I would in the next day or so. Mr. Dean responded, "All the lawyers are meeting across the street," which I assumed meant the Committee for the Re-election offices at 1701 Penn-

sylvania Avenue. He said it was urgent that I see Bittman immediately. I told Mr. Dean I did not want to be involved in what was going on "across the street."

Mr. Dean went on to explain the urgency, saying that Mr. Bittman intended to argue a motion to suppress the Government's evidence from Hunt's safe; that I would be called as a Government witness to testify that Hunt's employment had, in fact, been terminated in March of 1972 and that, therefore, he had been using the safe without authorization. Mr. Dean said I should at least explain these facts to Mr. Bittman. In view of my continuing objections, Mr. Dean suggested we discuss the matter with John Ehrlichman.

We went to Mr. Ehrlichman's office. Mr. Dean explained to Mr. Ehrlichman that he had asked me to see Mr. Bittman, but that I was reluctant to have any contact with Mr. Hunt or his lawyer. Mr. Ehrlichman said he saw no reason for me not to see Bittman but, obviously if Bittman should make any appeals on behalf of his client, I should be careful to make no commitments or representations.

I did see Mr. Bittman late that afternoon. Throughout the discussion, Mr. Bittman never asked for executive clemency for Hunt and I never offered it. In fact, executive clemency was never mentioned. The bulk of the discussion concerned Hunt's physical and mental condition—his concern for his children—his physical and mental inability to endure either a long trial or a long prison term—and the motion to suppress as to which I discussed in some detail the circumstances surrounding Mr. Hunt's termination, the fact that he had abandoned his safe and that the Government had properly seized the evidence contained in it. Mr. Bittman's major concern, as he expressed it to me, was his inability to negotiate with the prosecutors a plea to a reduced number of counts; further that he had been unsuccessful in getting Hunt's trial delayed in the light of Hunt's personal tragedy. I hereafter reported to Mr. Dean and Mr. Ehrlichman the substance of my conversation with Mr. Bittman and expressed my personal sympathy for Hunt's plight.

Mr. Bittman asked to see me again on the 4th. He came to my office late in the afternoon. He informed me that he had dropped the motion to suppress and thought I would like to know that he believed he was now making headway in negotiating a reduction of the number of counts in consideration for Hunt's pleading guilty. He restated his concern over Hunt's ability to stand trial or to endure a long prison term.

Following the second meeting with Mr. Bittman, I prepared a memorandum containing the substance of our two conversations, a copy of which was delivered to Mr. Dean. I might note that, while Mr. Dean seemed to have almost total recall for minute detail in his 248 page opus, he overlooked this memorandum in his testimony. The memorandum makes clear that I told Mr. Bittman under no circumstances could I do anything more for his client than assure him that I was his friend and, as such, that I would try to help him anytime. I specifically told Mr. Bittman I could make no representations as to what I might or might not be able to do in fact Mr. Hunt was sentenced and imprisoned. A copy of this memorandum was delivered to your staff on May 3.

Mr. Dean's testimony relative to this issue—that is, that I saw Mr. Bittman for the purpose of discussing executive clemency for Howard Hunt and that I asked the President on January 3, 4, 5, or any other time to grant Hunt executive clemency—is untrue. Mr. Dean's testimony (TR 2270) that when I met with him and Ehrlichman following my first meeting with Bittman, that I was "extremely shaken which was unlike Colson" is, on the other hand, quite true. I was "shaken" by one piece of information which Mr. Bittman had given to me. What shook me, as Mr. Dean characterized it—I would say I was stunned—was Bittman's statement that he had heard that John Dean had attended a meeting or meetings in the Attorney General's office prior to the Watergate during which electronic eavesdropping was discussed.

Until that very moment, I had never heard any report, other than newspaper allegations—most of which involved me and most of which were untrue—to the effect that anyone on the White House staff had been in any way involved in the Watergate itself—or even that anyone in the White House had advance knowledge that such activities were being considered. Parenthetically, I might add that I did not include this information in the memorandum I prepared on January 5, inasmuch as I was sending a copy to Dean, as was my consistent practice with all Watergate matters.

In view of the gratuitous suggestion in Mr. Dean's testimony that he was always suspicious of my involvement in the Watergate because of my association with Hunt and because, as Mr. Dean put it, I protested my own innocence too much, let me say at no time did Mr. Dean ever indicate to me any suspicion that I might have had any involvement. To the contrary, Mr. Dean told Mr. Mardian that I was "clean" on Watergate (TR 4844). In fact, during Mr. Dean's testimony, he alluded to lists that he had prepared of those who might be criminally liable with respect to Watergate matters. My name appeared on none of Mr. Dean's lists until the very last one which he prepared on April 14 (TR 2366) and then only with a question mark. The final list was prepared *after* my recommendation to the President that he be removed as counsel. In fact, I recall on more than one occasion when I was downcast and dejected over the continuing drumbeat of the press attacks on me, Dean would console me, saying that I was taking a bad rap, but that he and others knew I was innocent. I understand now why he *knew* I was innocent.

In any event, it was following my meeting with Mr. Bittman that for the first time I suspected that John Dean himself might be involved. I decided it was important to get back the tape of my conversation with Howard Hunt in November and transcribe it to see precisely what Mr. Hunt had said. I was becoming just a little apprehensive that perhaps Mr. Dean might find it convenient to "lose" what could be important evidence.

I asked Dean for the tape. Although he said he would get it for me, I had to continually remind him about it for two to three weeks. On one occasion I even went to his office and asked for it. He went through a number of files but said he couldn't locate it. On another occasion while John Dean was in my office, I asked my secretary to accompany him back to his office and to wait until he gave her the tape. After he left my office, he told my secretary that she need not accompany him, giving her the impression that I had told him she didn't have to. I had done no such thing.

I don't have the precise date, but sometime during the latter part of January, after almost daily calls, Mr. Dean returned the tape. I had a transcript made immediately, read it for the first time and was deeply disturbed. When I saw in cold print what it was that Mr. Hunt had said to me in November, I realized it's full implications. The sentence which struck home is the following:

"... that's fine for we're protecting the guys who are really responsible . . . and of course that's a continuing requirement, but at the same time, this is a two way street and as I said before, we think that now is the time when a move should be made and surely the cheapest commodity available is money."

This confirmed my belief that higher-ups in the Committee for the Re-election of the President must have been involved and deepened my concern over what might be happening to the White House as a result.

I decided then and there to raise the matter as soon as possible with Bob Haldeman.

I did meet with Mr. Haldeman and I expressed my concerns to him. I said that if those responsible for the Watergate didn't step forward and accept their responsibility, the White House could be dragged in and the consequences could become very severe.

I had, as I recall, two conversations with Haldeman in this period of late January and early February.

During one of these, I told Bob that I had a report that John Dean had been present at a meeting or meetings in the Attorney General's office prior to the Watergate in which electronic eavesdropping was discussed. Bob told me he knew all about it, that John Dean had told him, but that Dean's role was entirely proper inasmuch as he, Dean, had stopped the discussion the moment the wire-tapping question was raised.

I then raised a second concern, that is, the defendants were being provided with funds and this could be interpreted as "hush money". I said this could get very "snelly". Mr. Haldeman said he saw no reason why friends couldn't raise money to support defendants in proceedings of this kind, that this was like any other defense fund.

In the other discussion with Mr. Haldeman I made the point that I believed John Mitchell must have been responsible for, or at least known of, the Watergate and that if in fact he had been involved, he should step forward and take the consequences. If Mitchell was not responsible, then certainly Jeb Magruder must have been. Bob said if Mitchell indeed was behind the Watergate, "a lot

of people have been put through a lot of grief for John Mitchell." He went on to say that if John Mitchell were to "go down", he would "take you with him". Bob repeated the same warning with respect to Magruder. I replied that I had no concern, that I had not been involved in the Watergate, that I had no knowledge of it and I wouldn't for a moment be worried about what either man might say.

In fairness to Mr. Haldeman, I should make it clear that I was proposing no solutions, and that I had no concrete evidence beyond the two specific matters I had raised, the funds and Dean's attendance at the pre-June 17 meetings. Bob gave me no indication that he was engaged in any cover-up or that he knew who it was who had actually ordered the Watergate.

I'm not sure of the exact time sequence but I believe it was after my first conversation with Mr. Haldeman that I determined it my responsibility to express to the President my belief that certain persons in the campaign organization, namely Messrs. Mitchell and Magruder, *must* have been involved in the Watergate. I told him that whoever it was who had ordered the Watergate had "ill-served him". I did not discuss any specific information about Mitchell, Magruder or others because frankly I had no hard evidence that they were involved, but I did express anger that my friend, Hunt, would be punished while others who must have been responsible would not be. During the conversation, I did express my compassion for Hunt's plight, particularly the fact that he had lost his wife upon whom he relied so heavily and that he had four children to raise. I did *not* ask the President to consider clemency for Hunt. The President said that if I had any facts about the involvement of others in Watergate, I should bring them to him.

In early February, I discussed Watergate and the issue of Executive Privilege with my counsel and partner-to-be, David I. Shapiro. After reviewing all of the information then available to me, Mr. Shapiro said the real problem for the White House did not appear to be the Watergate break-in, *per se*, but rather the possibility that the White House might become involved in obstructing justice. He urged me to get to the President at the first opportunity to explain the necessity for him to get "out in front" of the situation.

On February 14, I told the President of the extensive conversations I had been having with Mr. Shapiro. I told him that I thought whoever was involved at the Committee for the Re-election in ordering or authorizing the Watergate would eventually be exposed. I told the President specifically that I thought John Mitchell had to accept the responsibility, that the facts would in due course come out, and that from the President's standpoint, the sooner the better.

The President again asked whether I had any evidence. I told him no, that I merely had hearsay reports and my own suspicions. I recall that the President reacted angrily. I can almost recall his precise words: "Are you suggesting that John Mitchell be held responsible or be made the scapegoat? Mitchell has, after all, sworn he was not involved. I want to get to the bottom of Watergate, but I cannot ask a possibly innocent person to be a scapegoat."

The President again told me to continue to try to obtain information and if I learned anything of any significance, I could report it to him directly.

It is important to note that I was unaware at this time of the LaCosta meetings, or of any of the November and December 1972 meetings referred to in Mr. Dean's testimony. I had no idea of the depth and intensity of the discussions that, according to the testimony you have received, had gone on among various members of the White House staff with respect to Watergate. I had no idea that there had been discussions within the White House regarding payments to the defendants.

On February 14, I departed for a three week assignment abroad. During the period I was away, Mr. Shapiro advised Fred Fielding, Dean's assistant, that, in his (Shapiro's) view, the whole Watergate affair could be terribly damaging to the President if there was any kind of cover-up and that those who had been involved or had prior knowledge had to be exposed and exposed fast. I had introduced Shapiro to Fielding prior to my departure and while I was in Europe they had several discussions about executive privilege and the case in general. I would refer this Committee to Pages 47-49 of Mr. Fielding's deposition in the Democratic National Committee civil suit, dated May 15, 1973, in which Mr. Fielding testifies regarding Shapiro's advice, and Dean's reaction to that advice when it was transmitted to him.

While in Austria, I talked with John Deau by phone with respect to a News-week article which contained new allegations attempting to link me to the

Watergate. During that conversation Dean told me he wanted to see me immediately upon my return. On March 8, two days before I left the White House staff to return to the practice of law, I met with Dean in his office. He was, at that point, working on the Presidents' statement on executive privilege which we discussed at some length. During the meeting he asked me if I would see Bittman or Hunt at some point just to be sure, as he put it. Hunt knew I was still his friend and cared about him.

At this point I had become very cautious, particularly because of the concerns Mr. Shapiro had expressed to me. I made no response to Mr. Dean's request but discussed it immediately with Mr. Shapiro, who instructed me not to see Mr. Hunt under *any* circumstances. Rather, he, Shapiro, asked me to arrange through Mr. Bittman for him to see Hunt. I did so. Mr. Shapiro met with Mr. Hunt on Friday, March 16, and reported to me on Monday, March 19. He told me in substance that while Mr. Hunt had confirmed that I had no knowledge or involvement in Watergate, Hunt wanted me to act as liaison between himself and the White House. Mr. Shapiro said he told Mr. Hunt that that was impossible, that Mr. Hunt would have to find some other way of making his position known to the White House and that I would be instructed to have no contact either with Hunt or with the White House concerning Hunt. Following his report, Mr. Shapiro told me in the strongest possible language to have no further discussions with anyone in the White House regarding Howard Hunt.

In the same conversation, Mr. Shapiro told me that, in his view, the situation was getting serious. He said, "For God's sake, the President has to get the facts. Who knows what's going on in that place. The fox may be guarding the chickens." I reminded Mr. Shapiro that I had discussed my suspicions about John Mitchell on February 14, but the President said that Mitchell had sworn he was innocent.

I said it was impossible to know what advice the President was getting and from whom and I suspected the President would not know whom to believe. I further said that if I should now start warning the President about others without hard evidence, he might erroneously think that I was myself involved and was only trying to shift the blame to others.

Mr. Shapiro then said, "In that case, there is only one thing you can do for the President. You have to get him outside counsel, somebody impartial, whom he and the country can trust." When I asked him whom he had in mind, he suggested J. Lee Rankin, the Solicitor General in the Eisenhower Administration. With my concurrence, he then and there called Mr. Rankin's office in New York and arranged a meeting for the morning of March 21.

On the evening of March 21, the President called me at my home. He asked for my recommendations with respect to Watergate. I told the President that I thought he could no longer rely upon any of the people around him, many of whom might have some personal interest or involvement, and that he should consider retaining independent special counsel to advise him.

The President seemed receptive. As I recall, he told me that he had been unable to get the facts, he had had a lot of conflicting reports and that he had to get to the truth of the matter.

I suggested he consider appointing a lawyer of impeccable integrity in whom he could have total confidence, who would find out what the facts were and report directly to him. He could then act based upon that advice. I gave him the name of Mr. Rankin whom Mr. Shapiro had visited that morning to determine whether Rankin would be willing to consider such an assignment if offered.

The President asked what I thought of Former Deputy Attorney General Larry Walsh. After discussing these names, the President asked that I submit other names to him so that he might consider seeking outside assistance.

I could tell from this conversation that the President was troubled. It came as no surprise to me when the President subsequently announced that it was on March 21 that he had decided to undertake the investigation himself.

Late in the afternoon of March 22, I went to the White House to see three members of the staff including John Dean.

The reason for seeing Mr. Dean was that he had that day been accused of lying during an FBI interview. I knew the charge was untrue. It so happened that the interview in question was the one I originally had with the FBI in June of 1972. I told Dean of my recollection of the interview; it was the same as his. I told him that he was being unfairly accused. I also decided that since he would probably learn I had recommended to the President the appointment of an independent special counsel, I would rather have him hear it directly from me. I therefore told him of the recommendation.

Mr. Dean has testified before this Committee that he was on that day very disappointed that the President had decided, as he put it, not to act. Yet his response to me that evening was that the appointment of a special counsel would "never work". He said the only way it could possibly work would be to have the special counsel "reporting to him", that is, Dean. I told John Dean that that would never work, that the President had to have a counsel who had not been involved in any way, who had no personal interest, and who was completely free to get all the facts and recommend whatever had to be done to clean up the mess. Mr. Dean's reaction to my proposal was not that of a man seeking a solution or a way for the President to get the truth but rather the reaction of a man desperately seeking to retain control of the investigation. I now realize why Mr. Dean would not want an independent counsel appointed; he would have been exposed.

On the next day, March 23, Bob Haldeman called to ask what representations I had made to Howard Hunt with respect to the commutation of his sentence. I told him I had made no such representations, that I had not seen Hunt since before the Watergate, that I had seen his lawyer on two or three occasions, but no commitment of any kind had ever been made. I told him that I had met with Mr. Bittman in early January and had given only a general expression of sympathy, that I had assured Mr. Bittman I would do anything I could to help Howard Hunt. I told Mr. Haldeman further that I had written a memorandum to the file and had advised Messrs. Ehrlichman and Dean fully.

He asked whether I had ever met McCord or had anything to do with him. I had not and told him so.

Mr. Haldeman then asked me about the phone conversation I had had with Jeb Magruder in February of 1972. He said that Magruder was contending that he had been "ordered to get the operation started by you" or words to that effect. I told Bob that that was untrue, that I had never been able to order Magruder to do anything. I also said that it was strange that Jeb Magruder would now be remembering the phone conversation, that it had never come up before, and that I doubted that Magruder honestly believed I was urging him to do anything with respect to Watergate or anything like it. I also explained to Mr. Haldeman that I had described this conversation in a memo to the file of June 20. I told him I had sent the memo to Mr. Dean on August 29 and Dean had told me to destroy it.

We also discussed the question of executive privilege and the question of all White House aides voluntarily appearing before the Grand Jury. Mr. Haldeman said that he was concerned that the President not appear to be covering up. A copy of my memorandum to the file regarding this conversation with Mr. Haldeman has been furnished to the Committee staff. The more I reflected upon Mr. Haldeman's question regarding my phone call to Magruder over a year earlier, the more apprehensive I became. Was someone now going to use this innocent call as a means for putting the blame on me? I had seen Magruder dozens of times since that call. He had never once mentioned it to me. No one had. Why now?

I then phoned John Dean to ask him whether he was aware that Magruder was not alleging that I had urged him (Mr. Magruder) to approve the Watergate. I reminded Dean that I had sent him, Dean, in August 1972, a memo of the phone call. Mr. Dean asked me whether I had kept a copy of the memo and I told him I had. Dean then told me he had heard Magruder's story, that I should pay no attention to it: Magruder's story, he said, was "constantly changing", he was striking out in all directions and he, Dean, knew I had no knowledge of the Watergate and should not be concerned about anything Jeb Magruder might now be saying.

I had the strong impression that the question of my call had been raised only recently. This would tend to be supported by Mr. Mitchell's testimony (TR 3763) that Fred LaRue only told Mitchell about the call during this year, 1973, despite the fact that LaRue had supposedly told Mr. Mitchell all the relevant facts right after the break-in.

Late in the afternoon of March 27, Haldeman called me to the White House; he told me to get him out of the President's office when I arrived. When we met, he told me that the President wanted my advice, that the President wanted to get the truth out about the Watergate, that somehow the situation had to be resolved quickly and, as I recall his phrase, "the cloud over the Presidency removed".

I told Bob I simply didn't know enough of the facts. I didn't know who was responsible for the Watergate. I had strong suspicions but no hard evidence. I told Mr. Haldeman that the essential first step was to obtain all of the facts, that the President needed an independent counsel, a good experienced lawyer who could provide him with independent advice. I believe we discussed names—former Justice Clark as well as Messrs. Rankin and Walsh. I told Bob that everyone around the President had his own interest to serve and the President simply had to have good independent advice. I told Haldeman I had made that recommendation to the President and that I did not know how else to get at the problem.

On April 2, I learned from a friend of mine who had met Jeb Magruder and Magruder's lawyer in a Bermuda Hotel that Magruder had made sweeping charges about everyone in the White House being involved in the Watergate "including Colson". My friend challenged him on this and Magruder reasserted the allegation that I was involved but offered no specific facts.

That evening I called John Dean to find out what he knew of Magruder's latest allegations.

Dean told me that Magruder was now becoming "dangerous" but repeated that I had nothing to worry about. He told me that he, Dean, had now pieced it all together and would some day tell me what happened. He said that no one would ever believe the true story, that the Watergate had been turned off and then resumed by mistake.

Mr. Dean has testified that on March 21 he told the President of the extent of the cover-up and urged the President to take steps to remove the "cancer on his Presidency". Not on this date, April 2, nor on any other date for that matter, did John Dean ever express to me a belief that the President might be involved in a cover-up or indeed that a cover-up even existed. Not on this date nor on any other date did Mr. Dean ever suggest to me that he was seeking a way to help the President remove the "cancer on his Presidency". Mr. Dean knew full well that I was in communication with the President. If he felt then the way he has testified he did—that is, the cover-up had to be ended—why didn't he ever mention this to me?

As a result of Magruder's allegations, I submitted to a polygraph examination on April 4 administered by Mr. Richard Arther, the report of which was made available to your staff on May 3. The examiner concluded that I had had no prior knowledge or involvement in the Watergate.

On April 12, the President called me in Boston to say that he wanted to act promptly on Watergate. He asked me to prepare a specific set of recommendations, what I believe he called a "precis", and to submit it to him as soon as possible. Shortly thereafter, Mr. Ehrlichman called to tell me he was aware of the President's request, that he had been investigating actively on the President's behalf and, as soon as I had my recommendations prepared, he would like me to bring them to him.

I met with Mr. Ehrlichman twice on April 13. During the morning I met with him alone to try to determine from him what information he had obtained so that I could prepare my own recommendations more intelligently. Specifically, I wanted to know whether it had been determined *who* had ordered the Watergate because it was essential to know that in order to make any recommendations. John explained that he himself had been digging into the matter very deeply, did not have all the critical facts but was in the process of assembling them. He told me that he had had to take over the investigation inasmuch as John Dean had been told to go to Camp David to write a report but couldn't write one, thereby raising grave doubts about the adequacy of his work and his own involvement.

I told Mr. Ehrlichman that Mr. Shapiro had been digging very hard and that we had a number of recommendations. John suggested that both Shapiro and I return in the afternoon. We did so, told Ehrlichman all that we then knew and made the following recommendations:

We urged that whoever was involved in authorizing, planning or approving the Watergate either come forward or steps be taken to see that they were exposed;

We recommend that the President waive all Executive Privilege for the Watergate incident only and/or for any alleged criminal conduct arising out of the Watergate;

We alternatively suggested that the President waive Executive Privilege for the foregoing and for campaign issues for principal White House aides like Haldeman and Colson ;

We once again urged the appointment of an independent special counsel and the replacement of John Dean ;

Finally, Shapiro further suggested that Mr. Liddy and his counsel be called into the Oval Office and be told by the President himself that he wanted Liddy to tell the whole truth. Shapiro added that he had heard that Liddy was remaining silent because he was assured of a pardon. Shapiro said that Liddy should be told that the only way he could be considered for clemency was if he came forward and told the truth.

That evening, John Dean called me at home to say that following by afternoon meeting with Ehrlichman, Ehrlichman had briefed Dean and Haldeman fully on our recommendations. Mr. Dean said, "as a personal favor, would you tell me how you think I am going to be implicated?" I told him that, according to what we understood would be testimony before the Grand Jury, he would be accused of having ordered Hunt out of the country and of having been involved in the Watergate planning. As to the Watergate planning, Dean said, "Oh, I turned that off". He also said that it was Ehrlichman who had told him to order Hunt out of the country but that after I exploded with my "fugitive from justice" charge the order was rescinded. Dean said I had been present at the meeting in Ehrlichman's office when this was discussed. I told Mr. Dean that I did not recall discussing this in John Ehrlichman's office, but since he had refreshed my memory, I did remember exploding over the thought that the White House would have anything to do with ordering Hunt out of the country.

It was on the following Tuesday morning, April 17, that Mr. Ehrlichman called me and that Dean had met with the prosecutors over the preceding weekend and was seeking immunity. I recall reacting very angrily, particularly at the thought that John Dean was seeking immunity. It was now crystal clear to me from what I had learned and particularly from what John Ehrlichman had told me the preceding Friday that Dean had been personally involved from the beginning.

I was furious that Dean's actions might deny the President the opportunity to get out in front and clear up the Watergate mess himself. I was particularly incensed that he had drawn upon "our personal friendship" to call me on the prior Friday evening, as he had. I realized that he had been seeking to save his own skin rather than to help the President in getting all the facts laid out to the public. I sensed also that since he had known for a month that I was advocating his replacement, he might now in his effort to get immunity make spurious charges against me or John Ehrlichman, whom at that point I had no reason to think was involved. I knew also of Dean's closeness to Mitchell and since January I had been voicing my suspicions about Mitchell.

In short, I was outraged that the real effect of my actions in trying to help the President out of the dilemma he had been placed in by Mr. Dean and perhaps others might be to help Mr. Dean escape prosecution, deny the President the opportunity to take the lead on Watergate and finally have others who were innocent unfairly charged.

I met with John Ehrlichman at 11:00 that morning; he told me what had transpired, particularly of the charges that Dean had made against him and Haldeman. According to his report, John Dean involved me only to the extent of having been in one meeting in Ehrlichman's office on June 19 when the matter of Hunt's safe was discussed. I reiterated to John Ehrlichman my feeling that it was imperative that the White House act quickly, if indeed it was not already too late.

During that week, I had a series of conversations with Mr. Ehrlichman in which I tried to reconstruct my own recollection of events, inasmuch as my own counsel at that point were meeting with the prosecutors. I recall checking with Mr. Ehrlichman on the 19th with respect to the question of whether all matters relating to the Pentagon Papers/Plumbers operation were classified inasmuch as Shapiro told me that the prosecutors would probably be inquiring into that area. Mr. Ehrlichman said that the Pentagon Papers/Plumbers area remained a matter of highest national security classification and that I was not permitted to discuss it.

On the following Saturday, April 21, Ron Ziegler called me from Key Biscayne. I do not recall the specifics but Ziegler's questions related to Watergate matters

I had previously discussed with John Ehrlichman. I told Ron that. As I recall they were rather minor, but I was surprised that Ziegler would be calling and obviously he realized I was surprised.

On the following morning, April 22, the President called to wish me a happy Easter and to assure me that Ziegler had called with his knowledge. The President told me that if I had any information to pass on to him, that I should call him directly or communicate with Ziegler. He told me not to talk with Haldeman, Ehrlichman or anyone else. I had the clear impression from my conversation with the President that he, himself, was deeply and personally involved in trying to determine all of the facts. He told me he had been working directly with the Justice Department.

Within an hour, John Ehrlichman called me and said that he knew the President had called and that he just wished to refresh his recollection on certain facts. I cannot recall what it was that Ehrlichman asked me about during that conversation. He called while I was in the midst of giving interviews to two television networks in my front yard. I responded to his questions, notwithstanding the President's injunction, because I assumed that the President must have talked to him after he talked to me, I do not know whether this was so or not.

What ensued thereafter is, of course, now well known to the Committee and to the public. The foregoing is, in summary form, as complete an accounting as I can give of what transpired between June 1972 and April 30, 1973.

If I may be permitted to draw a few conclusions from this chronology of facts:

1. I am convinced that the President not only was unaware in advance of the Watergate break-in but was genuinely shocked, angered, and distressed that his campaign organization would ever be involved in this kind of activity.

2. At no time in any conversation with the President from June 1972 to late March of 1973 did he indicate to me that he had any reason to believe there was White House involvement.

3. It is clear to me that the President realized on March 21 that he had to involve himself directly in trying to get at the truth of what happened.

4. Between March 21 and April 22 I had the very clear impression, based on my conversations with the President and with Mr. Ehrlichman, that the President was exerting intense pressures to get the facts—from anyone who could provide them.

5. The term "hindsight" has been used ad nauseum in these hearings and I therefore employ it with great reluctance. It is true, as I look back over the past year, that I should have more aggressively sought out specific information which might have enabled me to tell the President more with regard to the Watergate sooner. I am convinced that he would have acted sooner had he been able to get the truth.

I did not act more aggressively because I was obsessed with keeping my own involvement to a minimum; because for so many months I had been the principal target of press attempts to tie the Watergate to the White House. I felt I could best serve the President by erecting a protective shield around myself. I felt that anything I did might involve me would draw the White House more deeply into the Watergate mess.

As I have reviewed the testimony to date, it is clear to me that I was out of the mainstream of events that led up to and followed the Watergate break-in. I was not consulted when the intelligence operation was begun at the Committee for the Re-election of the President. My only contact with it, slight though it was, came about through a chance meeting with Mr. Hunt and Mr. Liddy, not because Mr. Dean or Mr. Magruder or Mr. Mitchell told me about it, not because I was advised of it through normal channels.

It is clear now as I read and hear all of the testimony of those who have preceded me, that I was only peripherally involved. During the week following Watergate, the only thing I did was to attempt to determine Hunt's status. I was not part of the meetings which took place with Mr. Mitchell, Mr. Maridan, Mr. Magruder, Mr. LaRue and Mr. Dean. I was not party to the subsequent meetings of Messrs. Haldeman, Ehrlichman and Dean in the Summer of 1972. I had no knowledge of the contacts with the CIA and the FBI. I was not involved in the series of November, December, January and February meetings that have been recounted. In fact, I didn't know that they took place. Wholly apart from

the protective shield I built for myself, I suspect there was another shield—not of my making—which I would have been unable to penetrate even if I had tried to do so. I believe the same shield kept the truth from the President.

AS TO THE WHY OF WATERGATE

This Committee has labored over the past several months to assemble all of the facts about Watergate. You have been equally concerned, however, with the whys and the hows of Watergate.

You have asked many of the men who have been before you why they did the things they did. I have listened to each individual's painful explanation, given I am sure with total sincerity. I, of course, have known some of these men rather well. But I have had the feeling as I have watched, that none of the witnesses, even to this day, fully realizes the extent to which their individual judgment and personalities were affected and in some cases consumed by the pressures of this White House.

It was a climate which may have indirectly led to the Watergate and directly to some of the other matters that have been disclosed.

In every Administration, White House aides serve with intense loyalty and dedication to the President. George Reedy has written very perceptively of the protectiveness, the defensiveness, the inbred nature of what is commonly called the "palace guard".

But there were things about the Nixon White House that exaggerated this.

Richard Nixon, candidate of a minority party, had been elected President in 1968 with the smallest percentage of the popular vote since the three-way race of 1912. From his first day in office, he faced a Congress controlled by the opposite party. He inherited the most unpopular war in our Nation's history.

During the summer of 1968, many of America's cities had been in a state of near insurrection. There was militant unrest on many of the Nation's campuses. The economy was being severely strained. But most significantly, many Americans honestly questioned whether America's spirit had failed, whether this Nation had lost its sense of purpose and greatness.

From his very first day in office, Mr. Nixon had to struggle to achieve the public confidence essential to any President's ability to govern effectively. Without the kind of personal charisma of a President Eisenhower or the glamour of a President Kennedy, President Nixon had to *earn* his support through his deeds and through his direct appeal to what he aptly described as the "silent majority".

There were many frustrations and discouragements in the first years. I recall vividly what was for me at least the low point, May of 1970. The President's Cambodian decision and the tragedy at Kent State precipitated a major domestic crisis. The stock market plummeted; most opinion leaders—in the media, in business, in the professions, indeed most religious leaders—vociferously opposed the President's decision. On May 9, the streets around the White House swelled with 250,000 angry, shouting protestors. Those of us inside on that grim Saturday had the feeling of being besieged in a fortress. Several hundred Marines and soldiers in battle gear were camped in the basement of the Executive Office Building. There were sandbags and riot squads at every gate. The stinging smell of tear gas was in the air all day. Many of us honestly wondered that weekend whether the Government would survive, whether we had the capacity to maintain the public support necessary to preserve order and to carry out the Nation's policies.

Throughout this time, we were locked in continuous battles with the Congress and major elements of the media over the ABM, over two Supreme Court nominees who were rejected and over a seemingly endless series of resolutions to tie the President's hands with respect to ending the war in Vietnam.

Our situation may not have been nearly so desperate as we believed. We unduly magnified the hostility of which we perceived ourselves the unfair victims. We began to take each attack personally. In fact, it became a way of life to try to answer every attack with a counter-attack. Gradually we began to view people either as "with us" or as our enemies.

I have heard it often said that our power made us arrogant. I can only speak for myself, but I believe exactly the reverse to be true. It was not an arrogance based on power, but an arrogance based on insecurity. Much of the time I found myself unsure; I worried whether in the face of the opposition—real and

imagined—of the media and the Congress, we could consolidate a national constituency in support of the President's policies. Rather than being exhilarated by the normal ego building accoutrements of the White House, riding on Air Force One, listening to the Marine Corps Band play "Hail to the Chief", I found I was constantly haunted by a fear of failure, a concern over the enormity of the problems the President had to handle and my own capacities to assist him. I believed we couldn't afford to relax or let down for a moment.

All of these feelings, whether they now appear justified or not, intensified as the 1972 campaign approached. We were determined not to have the election stolen from us as many thought it had been in 1960. We were haunted by the fear that our lead in the polls was illusory and that we would experience a repeat of 1968 when in the closing weeks of the campaign, a 15 point lead evaporated. We were determined to achieve the popular mandate that we had not achieved in 1968. We were determined to prove by the vote of the silent majority that we were right and that our opponents, as we saw them, in the Congress and media were wrong. This overriding fervent purpose blinded the common sense, the decency and even the integrity of a substantial number of people.

In my case, I had had the good fortune to serve as Administrative Assistant to former Senator Leverett Saltonstall. I knew many members of the Senate on both sides of the aisle. I've lived in and around Government for 20 years.

I had, for example, known Senator Kennedy for many years, despite partisan differences, as one for whom I had friendly, personal feelings. Yet, when on September 27, 1971, Senator Kennedy made a personal attack upon the President: "Richard Nixon lives in a Skinner box . . . (and) appeals to their (his own narrow constituency) basest instincts and panders to their prejudices" . . . I reacted with genuine personal anger and hostility. When Senator McGovern likened the President to Adolph Hitler or when Sargent Shriver described the President as a "psychiatric case", and a "reformed drunk" and the "No. 1 Bomber of all time", I lost much of my perspective.

When I saw demonstrators screaming four letter obscenities at the President's daughters or endangering the physical security of the President, I became incensed. I realize now that attacks like this should have been ignored. In politics they are counter-productive. Yet to me, believing that my sole object in life was to defend a President in whom I believed so deeply and for whom I had such overwhelming admiration and respect, that meant to attack those who attacked him.

I think there were many others who reacted just as I did, who felt driven, who felt the urgent need to fight for their cause—and perhaps to prove themselves in the arena of political combat.

For many of us the last several months have been a sobering and maybe in some ways, painful though it has been a meaningful experience. What has changed in my mind is not my feeling about the greatness of this President or the importance of the great goals he has set for this nation, but rather my attitude as to the means that permissibly can be used by those around any President to help him achieve those goals.

What has changed even more profoundly in my case is my view of the effect upon the individual of actions taken by his Government. I don't profess to have undergone an ethical transformation or that I have, at a convenient time, developed a new sense of morality about politics. A thinking man does not change either his ideas or his values as easily as he changes his shirt. I have, however, discovered over the past many months what it is like to be the victim of some of the tactics I myself earlier condoned—the leaks, the smears, the planted stories. I have learned what it is to look into the other end of the gun.

I suppose I have to say that, in a sense, I have deserved what I have gotten recently—as a highly partisan political figure. However, if that is so, it would also have to be said that my "victims similarly deserved" what they got from me—under the rules of rough-and-tumble politics. What I have now come to appreciate is that rough-and-tumble politics are no way either to run a country or to deal with the rights of individuals.

While I had no involvement in the Watergate or in the Watergate cover-up there are nonetheless other actions about which I know you will question me today. Let me simply say that the vast majority of the things that have been reported about me in the press are false. There are others, however, that are partially true and still others that are indeed wholly true.

Purely as a practical matter—because if nothing else I am a pragmatist—I have come to the sobering, personal realization of just how important one man's

civil rights are. I never really appreciated it before. But if I have come to know one truth out of the morass known as Watergate, it is that in our free society when the rights of any one individual are threatened, then the liberties of all are threatened. If suppressing the rights of one citizen is the price that must be paid for preserving what one perceives to be public order, then that may be an unacceptable price. As John Lilliburne told a Committee of Parliament that had banished and disgraced him exactly 420 years ago: "What is done unto anyone, may be done unto everyone".

Take for example, my memorandum regarding Harold Gibbons. Without judging whether the information I had received was worthy of transmittal to Mr. Dean, the tone of that memo reflects very clearly an attitude on my part to attack those who attacked the President without regard for that individual's rights and liberties. The rather well publicized remark that I would "run over my grandmother if necessary" to serve the President was actually made in jest, but the jest itself was symptomatic of an attitude which, as I have reflected back upon it, I cannot justify. The rights of my grandmother, the rights of any individual, as I have come to realize so painfully, can never be sacrificed in the name of winning any election.

It is said that the purpose of these hearings is to aid the Congress in determining what legislative reforms it should enact with respect to future campaigns. I hope this is so, because when politics takes on the cast of a religious war in which acceptable standards of legality and civility are lost, then it is time to call a halt, a time for those of us who have been part of the process to try to lead the way in restoring the lost balance. As a result of the efforts of this Committee, others who follow us may learn from our mistakes.

As you judge the conduct of those of us who served this President, I trust that as you will expose our mistakes and wrongs for what they were, you will also recognize the pressures that we at least perceived were upon us. I trust you will also separate in your judgment the conduct of the President himself from the conduct of some who served him. Despite the rancor of the moment, I hope that all of you who believe so deeply in your own public service will accept the fact that those of us who served this President did so in the deep conviction that we were making an important contribution to the great works of this Presidency. There are many things I regret. Having served to the fullest of my capacities for a man and an office I so deeply admired and so deeply admire now, I do not regret.

Mr. St. CLAIR. Thank you.

May I then proceed?

The CHAIRMAN. Please proceed, Mr. St. Clair.

Mr. St. CLAIR. I am not exactly clear what my last question was.

The CHAIRMAN. Why don't we ask the —

Mr. St. CLAIR. The other lady has gone out. So, I think the last question was, did the President, on the evening of March 21, say anything to indicate that he had authorized any payments to Hunt, and I believe the witness said no. Is that correct?

Mr. COLSON. I said no, I have no recollection of any statement to that effect.

Mr. St. CLAIR. Thank you. Now, with respect to Mr. Dean again, you told us yesterday, and your memorandum, exhibit 24, draft memorandum, exhibit 24, recites a conversation you had with Mr. Dean regarding your memorandum of June 20?

Mr. COLSON. Yes, sir.

Mr. St. CLAIR. It is on page 11, I believe.

Mr. COLSON. I remember the circumstances in any event.

Mr. St. CLAIR. Now, so that we are refreshed in our minds, what was the purport of your memorandum of June 20?

Mr. COLSON. Well, the June 20 memorandum is one that I testified to yesterday, that immediately after the initial news story that linked me into the Watergate I dictated to my secretary what I believed to be at the time as complete a recollection as I could of all contacts that I

had had with Howard Hunt during the year 1972. I did not go into depth into the Dita Beard matter, as Mr. Jenner pointed out. But, it referenced the March 15 meeting with him.

Mr. ST. CLAIR. This would be June 20 of 1972?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. How did Mr. Dean, if you know, become aware of this memorandum?

Mr. COLSON. I testified, I gave a deposition to Mr. Silbert for the original Watergate grand jury on August 28, 1972. During the course of that I didn't bring any papers with me, and I didn't bring my file with me. During the course of my deposition I was asked about contacts with Hunt. And I recited them all. I mentioned, I did say to Mr. Silbert that Mr. Hunt and Mr. Liddy had come in my office one day and met with me during the year. Mr. Silbert didn't ask me what about. When I got back to my office after giving the deposition I realized that I had wandered a little bit in answering questions. He didn't take things in chronological order. He was—I have not read my own grand jury testimony and I see what happened. He was going back and forth from one point to another, and I felt that the June 20 memo I had written would be helpful to the prosecutors.

I, therefore, I was also asked by the prosecutors about travel vouchers and travel that Mr. Hunt had performed. I went back to the office after my deposition. I found the travel vouchers, one of which included a trip to California. And I sent those to Mr. Dean, along with a copy of my June 20 memorandum, and I said to Mr. Dean in my covering memo to him I thought it would be useful if he were to send it along to Mr. Silbert as an addition to my testimony I had given the day before.

I think my August 29 memo to Mr. Dean the committee has.

Mr. ST. CLAIR. This is August of 1972?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Shortly thereafter, did Mr. Dean come into your office?

Mr. COLSON. The memo to Mr. Dean is August 29. Yes, he did.

Mr. ST. CLAIR. Could you fix, was it that day or within a day or two of your memorandum of August 29?

Mr. COLSON. I think it was a very short time thereafter, a day or two, perhaps 2 or 3 days.

Mr. ST. CLAIR. I see. Did you have a conversation with him concerning your memorandum?

Mr. COLSON. Yes, sir. He came into my office. I don't remember his precise words. I remember he had the original of my August 29 memo and the original of my June 20 memo with him. And he said—he said—he said this—I am not going to send this to the—I can't remember his precise words. The thrust —

Mr. ST. CLAIR. Just the thrust of it.

Mr. COLSON. That he wasn't going to send it to the prosecutors and he said to me, you should destroy all of your file copies because this impeaches Magruder. I remember his using the word impeach.

Mr. ST. CLAIR. Do you remember the word Magruder?

Mr. COLSON. Yes.

Mr. ST. CLAIR. Go ahead.

Mr. COLSON. I thought he was holding the original of the memo in his hands, and I thought he gave it back to me, but I guess not because I was never able to find the original. And I accepted what Mr. Dean told me. I had testified fully, I had told the prosecutors everything I knew, including the Dita Beard trip, all of the trips I had authorized for Mr. Hunt.

I was then providing them with all of the travel information, and I figured this is Mr. Dean's advice, he is acting as my counsel, I will do what he says. I probably, knowing what I know now, should have insisted that it go to the prosecutors.

Mr. ST. CLAIR. Now, Sir, at one point you made some recommendations at the request of the President as to what he ought to do in connection with the Watergate matter, as I understood your testimony yesterday? Is that right?

Mr. COLSON. Are you talking about April of 1973?

Mr. ST. CLAIR. Well, did he request the information, your recommendation at that time?

Mr. COLSON. Yes. As I testified yesterday, he called me on April 12 when I was in Boston and asked me to put together on a sheet of paper my recommendations as to what he should do to handle the Watergate matter at that time.

Mr. ST. CLAIR. And as a result of that request, as I understood it, did you make a series of written recommendations?

Mr. COLSON. Yes, sir. And gave those to Mr. Ehrlichman on the 13th of April, Mr. Shapiro and I both did.

Mr. ST. CLAIR. Mr. Ehrlichman had called you previously and said that you were to turn in your recommendations to him, as I understand it?

Mr. COLSON. Yes, sir. He had called shortly after the President called me.

Mr. ST. CLAIR. Did you, incidentally, confirm that with the President, that he had suggested Mr. Ehrlichman receive your recommendations?

Mr. COLSON. No, I did not. I assumed from what Mr. Ehrlichman said that he was acting at the President's behest.

Mr. ST. CLAIR. But that was an assumption you made?

Mr. COLSON. Well, it was what Mr. Ehrlichman told me, was that he was aware the President had asked for it, and would I mind bringing it in to him.

Mr. ST. CLAIR. And did you turn it over to him?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Did you have a discussion with him regarding it?

Mr. COLSON. Yes; we did. Two meetings on April 13.

Mr. ST. CLAIR. And where did these discussions take place?

Mr. COLSON. In the morning, me alone with Mr. Ehrlichman, and in the afternoon, Mr. Shapiro and I met with Mr. Ehrlichman.

Mr. ST. CLAIR. In his office?

Mr. COLSON. In his office; yes, sir.

Mr. ST. CLAIR. And did he object to any of the suggestions that you and Mr. Shapiro had made, to your knowledge?

Mr. COLSON. No, he did not.

Mr. ST. CLAIR. Did he add to the list of recommendations?

Mr. COLSON. I would have to go back and re-review his notes of that conversation. I don't think he added.

Mr. ST. CLAIR. What is your memory on the point?

Mr. COLSON. No, I think he—we submitted my recommendations in writing, and discussed each one of them with Mr. Ehrlichman. He did not disagree with them.

Mr. ST. CLAIR. And did you discuss those recommendations at a later time with the President during this period of time, which was what, April 12 and thereafter to the end of the month?

Mr. COLSON. No, I did not.

Mr. ST. CLAIR. Did the President ever ask you any questions concerning any of these recommendations during this period of time?

Mr. COLSON. No, sir.

Mr. ST. CLAIR. Do you know whether or not all of your recommendations were, in fact, conveyed to the President?

Mr. COLSON. All I would know is what I have read of the transcripts of conversations that followed my meeting or our meeting with Mr. Ehrlichman, and it would appear that all of the recommendation, if the transcripts I have read are complete, all of those recommendations were not passed on to the President.

Mr. ST. CLAIR. And can you remember specifically any that appeared were not?

Mr. COLSON. I think the question about waiving executive privilege was not, the question about appointing a special prosecutor was not, a special counsel was not. I am only basing this on what I have read of the transcripts.¹ It would be a fairly easy job to compare our specific recommendations, which are contained on page 48 of the draft testimony, with what in subsequent conversations Mr. Ehrlichman passed on to the President. But I think at least those two were not conveyed, according to what I have read, and I can only——

Mr. ST. CLAIR. What was your recommendation with respect——

Ms. HOLTZMAN. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Excuse me, Mr. St. Clair.

Ms. Holtzman.

Ms. HOLTZMAN. I wish to raise an objection at this point. The witness obviously is not in position to testify with respect to Presidential conversations in completeness. He is relying on edited transcripts, and it seems to me it makes a charade of this proceeding to allow Mr. St. Clair to go into the Presidential conversations with this witness when the witness is bound by his own memory, and at the same time Mr. St. Clair has complete transcripts. And I want to register an objection at this time, and I will register a continuing objection because it seems to me the quest here is for the truth and what was actually said, and while I know Mr. Colson is trying to search his memory as best he can, he is not a tape recorder, and there are tapes available, and so I will object to this question and any questions where the President's counsel has tape recordings so he can refresh the witness' recollection, or he can show the witness, in all fairness. The witness is under oath.

Mr. DANIELSON. I join in that.

Mr. MARAZITI. Mr. Chairman, I want to be heard on this matter.

Mr. SEIBERLING. Mr. Chairman, I also join in the objection.

¹ See p. 434.

The CHAIRMAN. I am going to sustain the objection.

Mr. MARAZITI. Mr. Chairman, I would like to be heard on the matter before you rule.

The CHAIRMAN. I have already ruled on it.

Mr. MARAZITI. I asked for recognition before you ruled, Mr. Chairman.

Mr. DENNIS. Mr. Chairman?

Mr. MARAZITI. I would like to be heard once in a while down at this end.

The CHAIRMAN. State, go ahead, you may state it, state what you feel is your argument on the objection.

Mr. MARAZITI. Thank you, Mr. Chairman. We know from the rules of evidence that the best evidence is the witness, and I can't see why that we should deprive a witness from testifying when that constitutes the best evidence, regardless of other matters. And I urge that you overrule the objection.

The CHAIRMAN. The witness has stated though, from time to time he has referred to the transcripts. He is now not relying on his own memory and his own recollection, and therefore, I sustain the objection.

Mr. RAILSBACK. Mr. Chairman?

Mr. DENNIS. Mr. Chairman?

Mr. RAILSBACK. Mr. Chairman, could I just ask a question and be heard?

The CHAIRMAN. Mr. Railsback.

Mr. RAILSBACK. You know, this as I understand the Chair's ruling, it really is, it is different than we have ruled before. In other words, unless I misunderstood the thrust of his examination, is this reference to the transcripts as it has been in the past to refresh recollection, or is it—

The CHAIRMAN. No, it is not for that purpose. If the witness is testifying from his recollection, but I have heard him state that according to the transcripts, and I have to sustain the objection.

Mr. DENNIS. Mr. Chairman, may I be heard just a moment on that?

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. Mr. Chairman, surely this goes to the weight rather than the admissibility. The witness, as the chairman has pointed out, is testifying from his memory, and in aiding his memory as best he can, he has referred to the fact that these transcripts don't indicate that certain things were transmitted as a potential basis for what he says. But he's got a right to testify. We can weigh what's it worth, whether his reasons are good or not. But we have been very liberal right along here. We have been using these transcripts for all sorts of things. Now, are we going to do a complete reversal?

Mr. LATTA. Mr. Chairman?

Mr. RAILSBACK. Mr. Chairman? Would you yield?

Mr. DENNIS. I would yield to the gentleman from Illinois.

Mr. RAILSBACK. I think maybe I am wrong. Is the gentleman—is the gentleman referring to conversations that he was not a participant in?

The CHAIRMAN. That is correct.

Mr. COLSON. Yes.

Mr. RAILSBACK. Well then, I am inclined to think the Chair is right, if that's—if he's just referring to—

Mr. DENNIS. If you will yield back to me, it is not a question of transcripts, the admissibility, or anything. We have been using them right along for all sorts of things here.

The CHAIRMAN. Rather than go beyond this, the Chair had ruled on prior occasions where the edited transcripts were being referred to merely as a basis for reference, a refreshing of the recollection, that it was perfectly proper. But in this case, the Chair has heard the witness state from time to time that according to the transcripts, and we would like the recollection of the witness rather than to make reference to the transcripts as such.

Now, therefore, I sustain the objection.

Let us proceed.

Mr. SANDMAN. Mr. Chairman?

Mr. HUNGATE. Mr. Chairman? Mr. Chairman, could we go forward? The Chair had ruled, and Mr. Maraziti was the only member seeking recognition at that time, I think, and the Chair has ruled. Could we go forward?

The CHAIRMAN. Mr. St. Clair.

Mr. ST. CLAIR. Thank you, Mr. Chairman.

What was your recommendation, sir, yours and your counsel, with respect to executive privilege?

Mr. COLSON. The recommendation that Mr. Shapiro and I made was that executive privilege be waived. I think in its entirety as to anything related to Watergate, or alternatively be waived in its entirety as to certain persons. We said that—we recommended the President waive all executive privilege for the Watergate incident only, and/or for any alleged criminal conduct arising out of the Watergate.

Alternatively we suggested the President waive executive privilege for the foregoing and for campaign issues, for principal White House aides like Haldeman and Colson.

Mr. ST. CLAIR. In what context was that recommendation made, in the context of the upcoming Senate hearings?

Mr. COLSON. No, Mr. Shapiro's position had been for several months that the best solution was to let everybody testify fully as to what had happened, and get it out in the open.

Mr. ST. CLAIR. Testify where?

Mr. COLSON. Wherever we were asked.

Mr. ST. CLAIR. Wherever you were asked?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. I see. Did you share that view?

Mr. COLSON. Not initially, I did not. In February and March I didn't. By April I was persuaded by Mr. Shapiro that that was correct. I was concerned with the principle, and then I realized, after Mr. Shapiro and I had been through it, that this had become a matter as to which each of us had to tell everything we knew regardless.

Mr. ST. CLAIR. And so early you were in favor of the President exerting executive privilege in connection with these matters?

Mr. COLSON. I was personally, yes, sir.

Mr. ST. CLAIR. Did you convey that view to the President from time to time?

Mr. COLSON. Yes; I did.

Mr. ST. CLAIR. And if you know, did he express his views, let's say in February or late February and early March?

Mr. COLSON. Yes.

Mr. ST. CLAIR. And in what direction was he tending?

Mr. COLSON. I think he agreed with my position. My concern was that, and his concern at that time was once you—it's the same concern we had in the *ITT* case with Peter Flanagan. Once you open the issue, then Dr. Kissinger and everybody else in the White House is subject to constantly having to disclose their own intimate advice to the President, as to which there is a great philosophical debate, as you know.

I believed strongly, he believed strongly against breaching that principle for a long time.

Mr. ST. CLAIR. Ultimately though you changed your view?

Mr. COLSON. That April I did, yes, sir.

Mr. ST. CLAIR. Did you learn from the President at or about that time that others had also expressed the same view, that he ought not to claim executive privilege?

Mr. COLSON. I don't think I learned that. I know Mr. Haldeman in his conversation, I think, which was introduced as an exhibit, raised the question about everyone testifying fully at the grand jury, which was partially related to that question.

Mr. ST. CLAIR. Ultimately you were, you testified before the grand jury without any limitation, did you not?

Mr. COLSON. I was told in the week following that I was free to testify fully, and did in all of the staff conferences about any and all matters related to Watergate. The only reservation being the Ellsberg matter. But, all executive privilege was waived, I think at that point.

I was prepared to go before the Watergate Grand Jury. I asked, as a matter of fact, and was scheduled to just before Mr. Cox took over. I then testified before his grand jury in August without any—I'm sorry, I asserted executive privilege as to particular conversations with the President that were not related to Watergate. That's right.

Mr. ST. CLAIR. As far as Watergate was concerned, you understood you were free to discuss it?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. And as far as you know, so were all of the other White House aides?

Mr. COLSON. I think there was a document that was given in the end of April or early May that freed me to testify about any matters related to Watergate.

Mr. ST. CLAIR. And was that decision then consistent with your recommendation?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Thank you. I have no further questions.

Just a moment. Hold it just a moment. Excuse me.

Mr. WALDIE. Mr. Chairman?

The CHAIRMAN. Mr. Waldie.

Mr. ST. CLAIR. I have no further questions.

The CHAIRMAN. Thank you. Mr. Waldie.

Mr. WALDIE. May Counsel clarify what the document was in April or May that freed him from the obligations of executive privilege?

The CHAIRMAN. Mr. St. Clair?

Mr. ST. CLAIR. I apologize. I was inattentive.

The CHAIRMAN. Mr. Waldie is seeking to have established what document was the witness supposedly testifying to?

Mr. ST. CLAIR. Perhaps the witness could enlighten us on that.

The CHAIRMAN. Well, it was your question.

Mr. COLSON. It is a document dated May 3, 1973, that begins, "The President declares that the invocation of executive privilege be held to a minimum, specifically," and then it goes on through three criteria, restricting discussions of national security, saying that White House Counsel will not be present at FBI interviews or at the grand jury, past and present members of the President's staff questioned by the FBI, Ervin committee, or the grand jury should invoke the privilege only in connection with conversations with the President and conversations among themselves involving communications with the President, and as to Presidential papers. That was then I believe—I am not sure, we may—the document I think that we have—I am not sure this is the final draft. This is what was given to us at the time, and it was then issued publicly. It is a White House document, so I am sure the committee can obtain it.

The CHAIRMAN. Mr. Jenner?

Mr. JENNER. Mr. Chairman, ladies and gentleman of the committee, we do not have this document, and we don't know anything about it. Mr. Colson has just said that the document to which he is referring might be a draft. I am not questioning his testimony.

Mr. COHEN. Mr. Chairman?

Mr. JENNER. But I do want the committee to know that we do not have it, and we have not examined Mr. Colson about it.

The CHAIRMAN. Mr. Colson.

Mr. COLSON. The only light I can shed on it, Mr. Chairman, is it was handed to us by Mr. Garment, and I know that he handed it to someone else just before he was to testify.

Mr. COHEN. Mr. Chairman?

The CHAIRMAN. Mr. Colson, would you kindly submit the document to Mr. Jenner?

Mr. COLSON. This is out of our working file, and it looks like it's been retyped in our office, because what I remember what we had wasn't—

Mr. McCLORY. Mr. Chairman, I think this subject is something of rather common knowledge, and I think it would be important for us to request Counsel for the President to furnish the committee with what was officially done as far as—

The CHAIRMAN. Except. Mr. McClory, Mr. Colson is testifying from a document that he has.

Mr. McCLORY. Well, there may be a copy in his file, and I think what we should get is the original if we can.

Mr. COHEN. Mr. Chairman. Mr. Chairman?

The CHAIRMAN. Counsel?

Mr. SHAPIRO. I have no objection to submitting it to the staff. I will be pleased to do so. I think, however, that for the purposes of clarification that I want to state that this was retyped in our office from an original document that was handed to me by Mr. Garment, who was then acting as White House Counsel, almost immediately prior to the time that Mr. Colson first went before the staff of the Ervin committee for a staff interview. I believe it was the same day. I believe that at a subsequent time this particular draft was revised to permit the witnesses to testify more fully than what is set forth in this draft.

The CHAIRMAN. The Chair understands that, but the Chair is seeking to indicate that if Mr. Colson is testifying from that document, then that document is not the same as the document that is being referred to, and then the committee would like to know and should know.

Mr. COHEN. Mr. Chairman? Could I inquire?

Mr. WALDIE. Mr. Chairman?

The CHAIRMAN. Mr. Waldie.

Mr. WALDIE. I think it is not only important that we know the document the witness is testifying to, but I think his explanation of the genesis of the document is enormously important to our understanding of the genesis of the expansion from a very limited, from a nothing to a limited to a broader scope of executive privilege. And we have not had this document up to this point, and apparently this is a confined, narrow extent of executive privilege, just devised and defined the day that he is to go before the Senate Committee for interview. And I think that's important in our analysis of this case.

Mr. COHEN. Mr. Chairman?

The CHAIRMAN. I think that the document ought to be submitted and I think it is important for the committee, and it could make a comparison with the document that apparently was referred to.

Mr. COHEN. Could I inquire, Mr. Chairman?

The CHAIRMAN. Mr. Cohen.

Mr. COHEN. As I recall, Mr. Dean was also questioned on this very subject about the waiver of executive privilege, and Mr. Dean testified that a statement was prepared establishing guidelines which were furnished to the U.S. Attorney's office. I think it would be important to compare that document with the other documents that were furnished to the witnesses, who were going to go before the prosecutors in the Watergate case to see the development and the genesis or the expansion of the doctrine. I have not seen a copy of the guidelines that were handed out to the U.S. Attorney, and I would hope counsel would get that for us.

The CHAIRMAN. Please make that available. Thank you.

Mr. CONYERS. Inquiry, Mr. Chairman.

Mr. DONOHUE. Mr. Chairman?

The CHAIRMAN. Mr. Donohue.

Mr. DONOHUE. Point of inquiry. Do I understand that this was, Mr. Colson is here before us at the suggestion of Mr. St. Clair?

The CHAIRMAN. No; that is not the case. Mr. Colson was requested by a number of members, and the committee sought to have Mr. Colson, who also expressed a desire to come before the committee.

Mr. CONYERS. Mr. Chairman, point of inquiry.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Has there been grand jury testimony and is there a document in existence not seen by our counsel? Is that different from that document which is about to be submitted?

The CHAIRMAN. Well, the document that has just been referred to was not seen by our counsel.

Mr. CONYERS. Well then, I want to raise the additional question that was there grand jury testimony, and is there material that could have been made available to our counsel over and above this particular document? I address that to Mr. Jenner.

Mr. JENNER. Forgive me, Mr. Conyers. I was preparing a note and I did not hear.

Mr. CONYERS. It's quite all right. Mr. Colson has indicated that he has testified before the grand jury. And I am trying to find out have we had the benefit of that testimony over and above the document that is now under discussion?

Mr. JENNER. No, we have not.

Mr. CONYERS. Is there any reason why we can't make ourselves available to that material?

Mr. JENNER. It's grand jury testimony and we do not have the grand jury testimony, the transcript. The secrecy rules inhibit us in that respect.

The CHAIRMAN. The committee will now——

Mr. CONYERS. Well, Mr. Chairman——

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Excuse me for proceeding, but is there something special about that that precludes it from coming to our attention, as is so much other grand jury material?

Mr. JENNER. Nothing special. Congressman Conyers.

Mr. CONYERS. Well, we have contravened that rule apparently many, many times in the investigation.

The CHAIRMAN. Well, the Chair would like to state that the material that has come to us from grand juries, that material was supplied to us, and as you know, there are prohibitions against furnishing this committee or any committee with material that was developed in grand juries. And I don't know specifically whether or not, and I don't recall whether or not any of the material that we do have in our files relates to this particular item.

Mr. CONYERS. All right, sir. So, if we did not seek it there would be no reason for the grand jury to release it, is that correct?

Mr. JENNER. Mr. Conyers, Mr. Chairman, ladies and gentlemen of the committee, this testimony was not submitted with the grand jury presentment that was made to Judge Sirica for transmittal to this committee, and in the absence of Judge Sirica permitting this particular grand jury testimony to be revealed to the committee, we are unable to obtain it.

Mr. CONYERS. Well, all I am trying to determine, sir, is whether we sought it, and whether they have refused to release it to us?

Mr. JENNER. No, we did not seek it.

Mr. CONYERS. Right. So, that's the reason that we wouldn't have it. We couldn't get it on a voluntary basis. There is no reason for them to deliver it without a request, and that's the point that I have been struggling towards, Mr. Chairman. And I would like to request that we try to make ourselves available of that testimony. I think it's enormously important. This is one of the very important witnesses before the committee on this matter.

The CHAIRMAN. Well, the Chair will instruct our counsel to attempt to do so. And, of course, the member does know that there have been other efforts that have been made to secure other material that was developed in grand jury sessions, and that material was not furnished to us, unless this committee wanted to go before the courts and begin to subpoena the materials of grand juries.

Mr. WIGGINS. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Mr. Wiggins.

Mr. WIGGINS. I should like to join in Mr. Conyers' request and Counsel, since you are apparently going to make some sort of a request for grand jury information to the Special Prosecutor or other appropriate agency, and I hope, Mr. Chairman, that you will agree that counsel can also request the grand jury testimony of Mr. Hunt late in March 1973, March or early April 1973.

Mr. JENNER. Mr. Chairman, shall we undertake to do that?

The CHAIRMAN. The committee has already instructed counsel prior to this to endeavor to secure whatever material was available, and this material was important, and counsel is instructed to do so.

Let us proceed with the committee members interrogating the witness. And Mr. Colson?

Mr. COLSON. Yes, sir.

The CHAIRMAN. I am going to ask each of the committee members who would like to examine you to examine you at this time, and I will start with Mr. Donohue.

Mr. DONOHUE. Mr. Chairman, I wish to reserve my time at the present.

The CHAIRMAN. The gentleman's time will be reserved.

Mr. Hutchinson.

Mr. HUTCHINSON. I reserve my time, Mr. Chairman.

The CHAIRMAN. The Chair would like to inquire if the reservations that are being made are for the purpose of later on utilizing the time?

Mr. DONOHUE. Are you addressing your remarks to me?

The CHAIRMAN. Yes, Mr. Donohue.

Mr. DONOHUE. It is for that purpose.

The CHAIRMAN. Mr. Kastenmeier.

Mr. KASTENMEIER. Mr. Chairman, thank you. I have just one or two questions. I will not be very long.

Mr. Colson, I think you said, referring to some of the recommendations you made with respect to a special counsel, that your relationship with Mr. Dean had been very good, and that really your reason for later taking a strong reservation with him, and with expressing your disapproval to the President was really because you felt that he, his policies were not serving the President well, is that correct?

Mr. COLSON. Well, I felt, Mr. Kastenmeier, at the time, which at the time that I made that recommendation to the President of a special counsel, that the President needed someone who was outside of all of this, who hadn't been personally involved in it, who would be above suspicion, whom the President could rely upon and would know to be objective. I also did have at that point, however, reservations about Dean, some simply because of his own involvement, as I understood it.

Mr. KASTENMEIER. And you felt he was not serving the President's best interests well at that time?

Mr. COLSON. I did, yes, sir.

Mr. KASTENMEIER. As a matter of fact, that has continued to be important to you. I think you testified that the President had recently spoken with you, last June 22, called you and had a warm, sympathetic conversation with you at your home, is that correct?

Mr. COLSON. The night, it was the night after I pleaded guilty, and it was June 4.

Mr. KASTENMEIER. June 4.

Mr. COLSON. Yes, sir.

Mr. KASTENMEIER. Even to this day, do you not consider yourself a good friend, a loyal soldier as far as the President is concerned?

Mr. COLSON. Well, I don't know that I could put the characterization loyal soldier, Mr. Kastenmeier. I accepted the plea for one primary and overriding reason, and that was my own conscience told me that I had an obligation to the country to do whatever I could to help shed truth on the matters before this committee, and to try to bring this conflict to a resolution. I will say to you, as I have said to your staff, that I had a very close personal relationship with the President for several years, and I don't trade in my friendships like used cars. I mean, there may be disagreements that I could have with someone, but I still would consider them a friend, yes, sir.

Mr. KASTENMEIER. I appreciate your statement.

Going back in time, did Mr. Ehrlichman ever say in your presence that the President did not authorize the Fielding breakin?

Mr. COLSON. In preparing discovery motions when both John Ehrlichman and I were defendants in the Ellsberg case, when Judge Gesell indicated that he would, that he would be disposed to dismiss the case if, in fact, the President had ordered it, Ehrlichman and I had a number of conversations.

Ehrlichman said that he recalled discussing with the President in advance the creation of the plumbers. Obviously that recalled discussing a California trip with the President, but that specifically he had not discussed in advance the Ellsberg breakin which, of course, Mr. Ehrlichman contended he also did not know was going to take place. So he said that he did not discuss it with the President. That was in the past 3 months.

Mr. KASTENMEIER. You also testified that the President, upon learning about the Watergate, became very angry and threw an ashtray across the room and expressed himself unusually in terms of disapproval, did you not?

Mr. COLSON. I said that one of my former assistants had reminded me that I had said to him immediately following, I don't honestly have an independent recollection of the President saying that to me at that time. I do have an independent recollection of the President being very angry in the subsequent—in the meetings I had with him subsequently, but—

Mr. KASTENMEIER. Have you any reason to believe that had the operation succeeded, and there had been no notoriety or public attention that had been brought to the President's attention, that he would have reacted that way?

Mr. COLSON. You are asking for speculation that I couldn't give you, Mr. Kastenmeier.

Mr. KASTENMEIER. Well, as a friend of the President, who knows the President very well and is familiar with many of the operations, past and extant at that time, would you have said that the reason the President acted as he did was because of the embarrassment to the administration, the failure of the endeavor rather than the fact of it?

Mr. COLSON. Well, he repeatedly said to me, that he couldn't imagine why any jackasses would want to go into the Democratic National

Committee in the first place, because you would never find anything out there. So, I doubt that any of us would have, at least I don't think I would have cared very much about what was going on in Larry O'Brien's office, and I doubt that the President would. It seemed to me to be a stupid thing to do, and it seemed to him to be a stupid thing to do.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

Mr. Colson, while you had a conversation with Mr. Dean in January, and I think you learned at that time that he was handling these money payments or serving as kind of a conduit in his contacts with O'Brien, the first time that this kind of information was known to the President, as far as you know, was on March 21, when you talked with him, is that not correct?

Mr. COLSON. I don't—I would have to challenge the basic question, I guess, Mr. McClory. I don't think I knew in—I did not know in January 1973, that Mr. Dean had anything to do with payments.

Mr. McCLORY. You didn't know he was handling money at that time either?

Mr. COLSON. No, sir. My assumption right up until the time Mr. Shapiro—I think my assumption for quite some time—I don't know when I was disabused of it—but all of the—whatever payments were being made were payments being made by the Committee for the Reelection.

Mr. McCLORY. I see.

Mr. COLSON. I had no idea there was any White House—

Mr. McCLORY. You learned that around the 19th or 20th of March then?

Mr. COLSON. I think we began to—we didn't know about Dean at that point other than what Hunt had said to Shapiro. I didn't know Dean was involved in any of the money payments.

Mr. McCLORY. But didn't you learn at that time, learned that Dean at that time had been making payments or OK'ing payments over a period of time?

Mr. COLSON. I think whenever it became publicly disclosed I found out about it. I don't think I knew about it until then.

Mr. McCLORY. Now, in your conversations with the President you never learned that the President knew anything about paying any money until your conversation with him on the 21st of March, isn't that correct, a telephone conversation with him?

Mr. COLSON. That's correct, and I am not sure it came up on that date. It could have been another conversation that he referred to the million dollars.

Mr. McCLORY. It wasn't before that?

Mr. COLSON. To the best of my recollection it was not before that.

Mr. McCLORY. Now, when you did learn about it, or when you did discuss it with the President, it was your recollection, it is your recollection, is it not, that the payment was paid prior to this March 21 meeting that the President had with Dean? In other words, this \$75,000 payment about which there is so much controversy actually had been paid before Dean ever talked to the President about this, isn't that correct?

Mr. COLSON. That was my understanding from discussions with Bittman and reading testimony, and no one ever gave me any impression otherwise. Yes, sir.

Mr. McCLORY. Now, with respect to your contacts with the President regarding the Ellsberg matter, following the Ellsberg disclosure of the spilling of the Pentagon papers, your initial action with respect to working with the President on that subject was to try to get some kind of a congressional hearing or a congressional investigation going, was it not?

Mr. COLSON. That was the initial thrust and that continued to be the primary interest.

Mr. McCLORY. And the idea was to try to, try to demonstrate that persons who violated their trust as Government employees in making public information that came to them in their employment would be curtailed or would be discouraged?

Mr. COLSON. The idea was to flush it all out publicly and thereby to discourage others from making similar unauthorized disclosures.

Mr. McCLORY. Your discussions with the President about Watergate, the Watergate break-in, the whole Watergate incident, up to the time of March 21 or about that date, all related to the politics, what political capital the Democrats were trying to make of this event, and it was unrelated to involvement of the White House in this, is that correct?

Mr. COLSON. Well, the first time, Mr. McClory that I raised the question of White House involvement was in January, but I raised it merely as a caution, that I was afraid it—just because of my conversation with Mr. Haldeman—I was afraid it might be creeping into the White House. I had nothing really to base it on except Mr. Bittman's report about Mr. Dean's involvement. I was just concerned, I was worried about it.

Mr. McCLORY. And one other question.

Mr. RANGEL. Mr. Chairman?

Mr. McCLORY. Your long friendship—could I just finish my question before my time is up and then you can object. Your discussion, your discussion with respect to clemency resulted from your long friendship with Mr. Hunt and the fact that his wife had been killed and that he was just about to go to prison, and that was the only discussion with respect to clemency or executive clemency, was it not? It didn't relate to any other Watergate defendants?

Mr. RANGEL. Mr. Chairman, at this time, for the record, I would like to withdraw the objection that I made to Mr. St. Clair's leading question.

Mr. COLSON. I have to take issue with that question because we never discussed executive clemency period. And I did express some personal compassion for Hunt, for no one else. I didn't give—I just was really broken up about the position the guy found himself in with his wife dead and four kids to support.

Mr. McCLORY. Well, your compassion did not relate to other Watergate defendants?

Mr. COLSON. No, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. McCLORY. Thank you very much.

The CHAIRMAN. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. Colson, the original list of 20 names of the enemies list was submitted to Mr. Dean by your office, Mr. Colson's office. Tell us about that list. Did you spend a great deal of time in drawing up the enemies list?

Mr. COLSON. Well, if nobody else will object to a leading question, I guess I will. I didn't draw up the enemies list, Mr. Edwards, at least if I understand what the enemies list is. I have seen all kinds of lists. They have been terribly confused in the press. I am delighted you are going to give me the opportunity to explain that.

I was asked, my office was asked in early 1971 to maintain a list of all those persons who had been supporters or backers of the President, influential people, those who we wanted to invite to White House social functions, those that we might like to appoint to boards and commissions. We were maintaining correspondingly a list of people we would not invite to White House official functions, and we would not appoint to boards and commissions. Those lists were maintained by Mr. George Bell in my office, and his assistant, Joanne Gordon. Mr. Bell is now deceased.

They were periodically circulated throughout the White House. They were very large, voluminous lists. The list which became labeled in the Senate Select Committee hearings as the enemies list is known as the opponents' priority activity list. Mr. Conyers I think was on that list.

It contains some very inflammatory language. That was not, that was not my list. I never prepared that list. I never saw—I never saw the document until it was submitted to the Senate Select Committee. It was not typed on a typewriter in my office and was not my list. It also had a Senator Jackson administrative assistant on it who happened to be a personal friend of mine. I never saw that list before.

Mr. EDWARDS. Well thank you, Mr. Colson. You said to Mr. McClory that the initial response to the leak of the Pentagon papers was to request or try to encourage congressional hearings. Wasn't the initial, first initial response by the President the formation of the plumbers, and why, why were the plumbers formed? Why wasn't the ordinary bureaucracy used instead of forming a private organization in the White House?

Mr. COLSON. Well, the special unit, Mr. Edwards, was formed in mid-July. The Pentagon papers were published in mid-June. The initial reaction or the initial concern was to stop the publication of the Pentagon papers themselves because they contained 10 items that were highly damaging to the national security, which were disclosed to the Supreme Court in camera, and then were voluntarily withheld from publication by the papers, and they were very serious items.

Mr. EDWARDS. Did you advise against the formation of the plumbers rather than using the FBI or the courts or any of the other—

Mr. COLSON. That came later. I did not. I wasn't party to any of the meetings at which it was decided to establish what was known as the special unit or Room 16 unit.

Mr. EDWARDS. Mr. Colson, you mentioned earlier all of the trips you authorized for Mr. Hunt. What trips did you authorize for Mr. Hunt?

Mr. COLSON. I personally asked him to go to interview Dita Beard, as I have already testified. I authorized him to go to Massachusetts to interview one Clifton DeMott, which he had suggested to me and had been suggested to him by Mr. Bennett.

Mr. EDWARDS. And that is the one where he went with the disguise furnished by the CIA?

Mr. COLSON. That's correct.

Mr. EDWARDS. Did you know that he had had this disguise furnished to him by the CIA?

Mr. COLSON. No. I thought it was his own disguise, as a matter of fact. I have read his testimony on that, and he indicates he asked me whether he could get it from the CIA. I have no recollection of that conversation whatsoever. I know now, that, in fact, he did.

Mr. EDWARDS. Were there any other trips, Mr. Colson?

Mr. COLSON. Those were the two that I specifically authorized. He did submit certain vouchers through my office for other trips, and I supplied that documentation to the prosecutors and the FBI in August of 1972. I had not signed them. My secretary signed those vouchers.

Mr. EDWARDS. Do we have a list, Counsel, Mr. Jenner, of the trips authorized by Mr. Colson for Mr. Hunt?

Mr. JENNER. It is my very best recollection that we do not have.

Mr. EDWARDS. Mr. Colson, is there a way that we can ascertain those trips?

Mr. COLSON. I submitted everything I had, all of the vouchers for pay that had been submitted to my secretary, all of the travel vouchers to the prosecutors in August of 1972. I don't have them.

Mr. EDWARDS. Well, from your memory do you think you authorized Mr. Hunt or approved a number of trips by Mr. Hunt?

Mr. COLSON. Well, I testified to two specific instances when I said to him, yes, you go do this.

Mr. EDWARDS. Yes.

Mr. COLSON. The other trips he travelled were generally at the direction of others, for example, when he was assigned to the plumbers, and he went to the room 16 unit, and he went to California. That trip was authorized by the plumbers unit. I think he made one other inquiry of someone who had been involved in the Pentagon papers and made a trip in 1971. I don't recall now what it was, but I have submitted all of the records that I have in my office, and I think all of the White House records have been submitted, Mr. Edwards.

The CHAIRMAN. The time of the gentleman has expired.

Mr. JENNER. Mr. Chairman?

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. Mr. Chairman, Congressman Edwards, Mr. Nussbaum advises me that we do have a few of the travel vouchers, and we will assemble them and advise the committee and you, sir, of what we do have.

Mr. EDWARDS. Thank you, Mr. Chairman, Mr. Jenner.

The CHAIRMAN. Mr. Smith.

Mr. SMITH. Mr. Colson. I think you testified yesterday that in October of 1972, October 22 I believe it was, you had a conversation with Dorothy Hunt?

Mr. COLSON. No, Mr. Smith. My secretary had a conversation with Dorothy Hunt. I don't know the date, but her affidavit will make that clear.

Mr. SMITH. And the following day being October 23, information was turned over to Fred Fielding, I believe John Dean was out of town. I am reading from a memorandum here.

Mr. COLSON. That's my former secretary's affidavit which is committee exhibit something or other.

Mr. SMITH. 12, I think.

Mr. COLSON. 12.¹

Mr. SMITH. "I saw Dean the next day in the hallway and asked him what I was supposed to say and do when Mrs. Hunt called."

Is that your secretary's—

Mr. COLSON. That is her affidavit, yes sir.

Mr. SMITH. "And Dean said, forget it—it's being taken care of." Did that information come to you?

Mr. COLSON. It did at the time she prepared the affidavit, which she did with Mr. Shapiro from her original shorthand notes, I think, in the spring of 1973.

Mr. SMITH. Not—

Mr. COLSON. Not at the time, no, sir.

Mr. SMITH. So that you did not know in October of 1972 that John Dean was involved in this thing?

Mr. COLSON. Well, I knew he was involved in terms of being the White House Counsel and the man that handled everything to do with Watergate inside the White House. I didn't know that he had my knowledge or relationship to any of the payments being made; no, sir.

Mr. SMITH. Thank you very much. I will reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Hungate.

Mr. HUNGATE. I will reserve my time, Mr. Chairman.

The CHAIRMAN. Mr. Sandman.

Mr. SANDMAN. I only have a couple of questions, Mr. Colson. I was out of the room when you were being examined by Mr. Doar on the Ellsberg matter and I would like to be brought up to date about it, but I did make a couple of notes on your answer to Mr. St. Clair's question. I have here that your answer to the St. Clair question as to the authorizing of the Fielding break-in, you said that the President had nothing to do with the ordering or authorizing the Fielding break-in. Is that correct?

Mr. COLSON. Well, what I said, Mr. Sandman, was that I never discussed that question myself with the President. Everything that I know about it was secondhand through Mr. Ehrlichman or my impressions at the time or my impressions when I asked Mr. Ehrlichman for information as to what I could testify to, and then subsequent discussions with Mr. Ehrlichman in preparation for the actual Ehrlichman trial in the *Ellsberg* case.

Mr. SANDMAN. Well, to your knowledge, did the President ever authorize the Fielding break-in?

Mr. COLSON. I have no evidence that he did.

Mr. SANDMAN. Now, one other significant point that you offered on the examination of Attorney St. Clair. According to my notes, you

¹ See p. 278.

said that you were never directed to say anything or get out anything that was untrue about Ellsberg. Is that correct?

Mr. COLSON. That is correct. Certainly nothing that I thought was untrue or anyone indicated was untrue.

Mr. SANDMAN. Now, does that also apply to Ellsberg's attorney?

Mr. COLSON. Yes, sir. The material that was the foundation for the article that I did give to Mr. TerHorst came from the FBI and in fact, the FBI had already caused its publication in the Copley newspapers.

Mr. SANDMAN. Was any of the information that you put out in regard to Ellsberg or his attorney, was any of it untrue?

Mr. COLSON. Not to my knowledge, Mr. Sandman, I can't vouch for the accuracy of the FBI's information.

Mr. SANDMAN. I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Conyers.

Mr. CONYERS. Mr. Colson, is it correct that you said "I would walk over my grandmother if necessary for Richard Nixon?"

Mr. COLSON. I knew someone was going to ask me that today.

Mr. CONYERS. Is it true?

Mr. COLSON. No; it is not, Mr. Conyers.

In 1970, I was——

Mr. CONYERS. That is all I wanted to find out. If it is not true, I don't require you to in these 5 minutes to——

Mr. COLSON. Well, I think I need to explain it to you, Mr. Conyers.

Mr. CONYERS. I don't think so. Unless the Chairman differs with me.

I don't want to use up my time, Mr. Chairman. That was a yes or no answer.

The CHAIRMAN. I think if the witness has stated it is not true.

Mr. CONYERS. I don't intend to state it any further, it is either true or false.

Mr. COLSON. I can't answer it that clearly because I later said it in jest after I saw it in print. But is it true that I ever seriously said it, no sir.

Mr. CONYERS. Did you assist in setting up an organization called the Veterans for a Just Peace, or give any assistance in any way to the formation of that kind of organization?

Mr. COLSON. When I first learned about the existence of it, it was already in business. I did assist it to the extent that I met with some of the officers. I gave them some encouragement. I brought them in to meet with the President at one time.

Mr. CONYERS. I see.

Mr. COLSON. I don't know of any other involvement I had in assisting them.

Mr. CONYERS. Fine. Was it the notion to counter-effect, to have some counter-effect on the Vietnam Veterans Against the War organization?

Mr. COLSON. Well, that is why these young fellows who started—I guess you are talking about John O'Neill's group, are you?

Mr. CONYERS. No; I am just trying to find out if the assisting in the creation of the Veterans for a Just Peace was an attempt to counteract the effectiveness of Vietnam veterans who had formed official organizations, primarily one known as the Veterans Against the War, and that this was, in effect, a way to counteract it?

Mr. COLSON. I am not sure I know the title of Vietnam Veterans for a Just Peace. There was a group of Vietnam veterans headed by John O'Neil that was organized before I knew of their existence. They came in to visit with me. If it is the same group, their purpose was to counter the effect of the Vietnam Veterans Against the War and I encouraged them.

Mr. CONYERS. Did you early March of 1972 call Jeb Magruder and say in effect that Gordon Liddy was upset because he was trying to get started on an intelligence operation and he can't get through to anybody?

Mr. COLSON. No; I think the call that you are referring to is one that took place in January, possibly February, and is the one I testified to at some length yesterday. You will find it is contained, my best recollection of that conversation is contained in my memo of June 20, 1972, and is alluded to in the—

Mr. CONYERS. Well, it is generally correct, sir?

Mr. COLSON. No.

Mr. CONYERS. It is not correct?

Mr. COLSON. I will have to stand on the precise testimony I gave yesterday to that effect.

Mr. CONYERS. To your best knowledge, was there any writings or documentations or plans around the creation of the Plumbers? There were apparently formal lines of communication going from the President himself through Mr. Ehrlichman through Mr. Krogh and it would seem that you might be able to assist us in this matter.

Mr. COLSON. There was, Mr. Conyers, something I was shown by the Special Prosecutor in recent weeks that was, I think, an organization chart. I don't recall—it was an internal document that Mr. David Young had used. It is the only thing I have seen that would be relevant, I think, to your question. I never saw any of the documents at the time regarding the creation of the Plumbers. The only thing I have seen—as to the creation. The only thing I have seen is what the prosecutors have shown me in connection with evidence at the trial.

Mr. CONYERS. Did you place a call after, approximately 1 hour after Mr. Wallace was shot on the afternoon of May 15 and suggest to anyone that the apartment of Mr. Bremer in Milwaukee be looted to attempt to link him to any so-called Left Wing political causes?

Mr. COLSON. Flatly, categorically, and unequivocally no. And I would like, since you have raised the question, I can submit the memorandum that describes my conversation to—

Mr. CONYERS. Fine. We will accept it.

Let me ask you if the President knew of the Watergate involvement and didn't tell you, there would be no way that you would be able to tell, is that so?

Mr. COLSON. I don't understand the question, sir.

Mr. CONYERS. All right, I will rephrase it perhaps a little better.

If the President knew of White House involvement in Watergate, he would not have to tell you, would he?

Mr. COLSON. No, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Railsback.

Mr. RAILSBACK. Mr. Colson, this is one member that has been listening to your testimony and frankly, wants to commend you, because I

think it is my opinion that you have been forthright and I think we all ought to appreciate what you went through yesterday.

Let me go back to the Ellsberg, the events following the Ellsberg break-in. My notes indicate that you said yesterday that you discussed the Ellsberg matter extensively with the President in July and August, but less in August than in July. What was the substance of those conversations? Were they in the nature of continuing reports to the President about what you were doing, or what?

Mr. COLSON. Well, the initial conversations, Mr. Railsback, were about what to do about the publication of the papers, and there was great concern because of the China trip, the SALT negotiations, the Vietnam peace negotiations. In August, there hadn't been the additional leaks that we were concerned with and at that point, it would just sort of come up occasionally in conversation with the President. He might ask, you know, what's going on or what have you done in this regard about getting hearings started, that sort of thing.

In August, it had faded, really, as the prime issue of the day in the White House.

Mr. RAILSBACK. My recollection is you also discussed other matters with him. I think you were specifically asked about whether you had discussed this memo relating to Boudin, which you indicated that you had no independent recollection of but you have some notes—

Mr. COLSON. Yes, sir.

Mr. RAILSBACK [continuing]. That indicated that you did discuss Boudin. What about Ellsberg, though? Did you report to the President what you were doing as far as any efforts to discredit or defame him?

Mr. COLSON. Well, in terms of Ellsberg, the only thing that I did was to attempt to get congressional hearings started and I did tell the President of that, meetings, certain meetings I had had with members of congressional staffs.

Mr. RAILSBACK. Let me ask you this, then. You pled guilty, I believe, to some counts that appeared in an information that had to do with obstruction of justice.

Mr. COLSON. Yes, sir.

Mr. RAILSBACK. And in reading those counts, I find that generally, they are charging you with devising and implementing a scheme to defame and destroy the public image and credibility of Daniel Ellsberg. And then there is a third count that deals with Leonard Boudin, the attorney. I don't think it spells out Boudin, but the attorney for Daniel Ellsberg.

Mr. COLSON. Yes, sir.

Mr. RAILSBACK. In response to Mr. Sandman, you indicated that information you released, as far as you knew, anyway, was truthful.

Mr. COLSON. Yes, sir.

Mr. RAILSBACK. Why did you—I have difficulty understanding why you pled guilty in the light of your response to him, and also your statements to me. What did you do that impeded justice?

Mr. COLSON. Well, I have been the recipient, Mr. Railsback, of a lot of leaks, some of them true, a lot of them untrue, over the past 2 years. I know what it is like to try to be a defendant who wants to get a fair trial in the community that he is going to be tried in and pick up the

newspaper and read some outlandish charges like the enemies' list Mr. Edwards, I think, referred to. And it just isn't right. It is wrong.

I would have, had I been able to, put out as much material as I could about Daniel Ellsberg and that would have had the effect of interfering with his trial. And I felt that this plea would give me the opportunity to come here and elsewhere and tell the truth as I know it and also, I would hope, stand as a precedent so that other people, other defendants who may have to face trial, whoever they are, particularly in a celebrated case, would not be subjected to what I was subjected to and would not be subjected to what I tried to subject Daniel Ellsberg to.

Mr. RAILSBACK. Before my time runs out, let me ask you, did the President ever suggest to you or discuss with you your performing any acts that were designed to defame or discredit either Daniel Ellsberg or Leonard Boudin, so far as you know?

Mr. COLSON. Well, I think we were attempting to shed light on what he was doing and why he was doing it in an effort to make his views less credible.

Mr. RAILSBACK. Can you be more specific than that?

Mr. COLSON. Well, the purpose of the congressional hearings would be to show why he did it, how he did it, and hopefully, thereby, to discourage others from doing it and in my view, to limit his effectiveness as a spokesman against the President's policies.

Mr. RAILSBACK. Was there anything, as far as your conversations with the President, that dealt with getting out defamatory or derogatory materials to newspapers or to the public in any way?

Mr. COLSON. Well, I would say to a degree, yes, sir.

Mr. RAILSBACK. Well, what was it?

Mr. COLSON. Not untruthful in the sense that—well—

Mr. RAILSBACK. What did the President tell you to do, if anything?

Mr. COLSON. His principal concern was with getting out material—of course, the Boudin case I have specifically refreshed my recollection from notes. That had already been made public, as I indicated.

As to why Ellsberg did what he did, that is a very long story that would eat up more than your 5 minutes. I am sorry.

The CHAIRMAN. The time of the gentleman has expired. You can finish the statement, Mr. Colson. Did you want to add to that?

Mr. COLSON. I just want to say this, that it was not, in my view at the time, an effort to do anything other than to shed light on something that was very, not very well understood publicly. That is really what we were trying to do. Now, that is pure motives, maybe, but the consequence of what I did, I accept my own responsibility.

The CHAIRMAN. Mr. Ellsberg?

Mr. EILBERG. Mr. Colson, you were very attached to Mr. Hunt. Were you able to attend his wife's funeral?

Mr. COLSON. Pardon me, sir?

Mr. EILBERG. Did you attend the funeral of Mrs. Hunt?

Mr. COLSON. No, I did not.

Mr. EILBERG. Did you have anybody there representing you?

Mr. COLSON. I sent my secretary at the very last minute. I had planned to go and then I realized it would result in a newspaper story and it might be embarrassing to the President and at the last minute,

I decided not to. I sent my secretary with a handwritten note and I frankly never forgave myself for not going.

Mr. EILBERG. Did she have any other mission to perform while she was there?

Mr. COLSON. No, sir. I just asked her to hand a note to Mr. Hunt, which I had handwritten to him, expressing my sorrow over Dorothy's death.

Mr. EILBERG. There is a reference in the examination by Mr. St. Clair on page 3099.¹ He asks Mr. Bittman:

Now, did you receive hand delivery of envelopes other than the three or four that you have testified you received as a result of calls from a Mr. Baker?

Mr. Bittman responds:

The only other instance that I can recall receiving an envelope that was hand-delivered was at the funeral of Dorothy Hunt which I attended, and at some time during the course of the funeral, Mr. Colson's secretary gave me an envelope, sealed envelope, and asked me to deliver it to Mr. Hunt, which I did.

Mr. COLSON. That would be my personal note of condolence to Mr. Hunt on the death of his wife.

Mr. EILBERG. There was no money in that envelope?

Mr. COLSON. No, sir.

Mr. EILBERG. Did you ever provide any money to Mr. Hunt?

Mr. COLSON. No, sir.

Mr. EILBERG. Now, turning to—

Mr. COLSON. Except the White House-reimbursed expense for Mr. Hunt during the time he was a consultant.

Mr. EILBERG. When you met, on or about November 19, 1970, with Kalmbach, Tom Evans, and the dairy cooperative representatives, why was it necessary to plan for the disguising of the dairy contributions to the President's campaign?

Mr. COLSON. Why was it necessary to plan for the disguising?

Mr. EILBERG. Yes.

Mr. COLSON. It was not a question of disguising, Mr. Eilberg; it was a question of they wanted to start making their contributions and we were happy to have them do so, as early as possible. They had a statutory limit, as I recall, of \$5,000 per committee, so it was necessary to establish a lot of committees. It was not disguised in the sense that TAPE, the AMPI political arm, had to report quarterly to the Clerk of the House all contributions, but they would be reported to various dummy committees that had been established by Mr., the intent was to establish and I think, in fact, was done, a whole series of committees to which they would make ongoing contributions within the ceiling that the statute provided.

Mr. EILBERG. Who made that decision to engage in that procedure?

Mr. COLSON. I don't really know. I know it grew out of conversations that I had with them and Mr. Kalmbach. It was everybody's intent that they start contributing because they mechanically couldn't do it any other way.

Mr. EILBERG. I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Wiggins.

Mr. WIGGINS. What information did you disseminate in the summer of 1971 with respect to Dr. Ellsberg?

¹ See HJC, "Testimony of Witnesses," book II, p. 45.

Mr. COLSON. I don't recall that I in fact disseminated to the press, at least, any information about Dr. Ellsberg.

Mr. WIGGINS. Now, in preparation for your testimony before this committee, I gather you were interrogated at some length by our own staff, is that true?

Mr. COLSON. We had, I guess, 4 or 5 days of questioning, yes, sir.

Mr. WIGGINS. All right. Over this 4- or 5-day period, did any member of our staff ask you if you were possessed of any information, indicating to you that the President knew of the break-in of the Democratic National Committee prior to its occurrence?

Mr. COLSON. I think the thrust of the questioning was designed to get that information if I had it, yes, sir.

Mr. WIGGINS. Had the question been asked, what would your answer be?

Mr. COLSON. Whether I thought the President knew in advance of the break-in of the DNC?

Mr. WIGGINS. Do you have any facts indicating that he knew in advance?

Mr. COLSON. No, sir.

Mr. WIGGINS. Now, did the staff, during the course of the 3- or 4-day interrogation, ask you whether you were possessed of any facts with respect to whether the President knew of an effort to cover up the Watergate break-in between the period of June 17, 1972, and March of 1973?

Mr. COLSON. I am not sure the question was put just that way, but we went through a chronological recitation of what I knew, just as Mr. Jenner took me through it yesterday.

Mr. WIGGINS. Right. Had the question been asked, what would your answer have been?

Mr. COLSON. Let me hear the question again, Mr. Wiggins.

Mr. WIGGINS. Are you possessed of any facts which indicate to you that the President knew of an effort to cover up the Watergate break-in and its aftermath until the date March 1973?

Mr. COLSON. The answer would be, no, sir.

Mr. WIGGINS. Now, if subsequent to the date March 1973 to the present time, are you possessed of any information indicating a Presidential effort—a Presidential awareness of facts that that incident is being covered up?

Mr. COLSON. I am not sure I could answer that question, because you have more facts than I do.

Mr. WIGGINS. I am asking what facts you have.

Mr. COLSON. It calls for a legal conclusion based on your reading of all the transcripts that I—

Mr. WIGGINS. No; I want to know what you know, Mr. Colson, of any facts.

Mr. CONYERS. Mr. Chairman, I would like to lodge an objection to that question.

The CHAIRMAN. I think the witness has stated correctly that the member is seeking for a legal conclusion and I sustain the objection.

Mr. WIGGINS. Do you have any facts in your knowledge to call to the attention of this committee with respect to efforts to cover up Watergate?

Mr. COLSON. Well, I have testified——

Mr. WIGGINS. On the part of the President.

Mr. COLSON [continuing]. As fully as I could everything I knew about conversations I had and those facts are just going to, I guess, have to speak for themselves.

Mr. WIGGINS. Now, directing your attention to the draft statement which you prepared in anticipation of testifying before the Senate Select Committee and in evidence as exhibit 24 of this committee,¹ would you tell me when you prepared that draft?

Mr. COLSON. During the months of June and July of 1973.

Mr. WIGGINS. In preparing the draft, did you refer to your own notes and to transcripts of the then ongoing hearings before the Senate Select Committee?

Mr. COLSON. Yes, sir; to the extent I had information.

Mr. WIGGINS. Based upon the facts known to you at that time, is your draft statement true and accurate with respect to factual material contained therein?

Mr. COLSON. I believe so, but I would have to go back and—I would want to be, because of many reasons, absolutely precise about each and every fact. It certainly was true at the time I prepared it.

The CHAIRMAN. I would like to advise the witness that when you presented that document to the committee, you presented it with a condition, and I would hope that the member knows that he is pressing the witness.

Mr. WIGGINS. I know what I am doing, Mr. Chairman, if that is your question.

Now, referring to page 39² of that draft, Mr. Colson. The draft contains your recollection of a call with the President on March 21, 1973. It states in the middle of the page, and I quote—

As I recall, he told me that he had been unable to get the facts, he had a lot of conflicting reports and that he had to get the truth of the matter.

Do you recall the President saying that on the evening of March 21?

Mr. COLSON. I recall his being confused over many of the facts that he had said he had been receiving and that is the reason that I think we discussed as long as we did the question of a special counsel, someone who could get at the facts; yes, sir.

Mr. WIGGINS. All right. Now, referring to a conversation you had with John Dean on April 2, following a call from Magruder——

Mr. COLSON. Yes, sir.

Mr. WIGGINS. That incident is reported at page 46.³ Would you refer to that page, please?

Mr. COLSON. Yes, sir.

Mr. WIGGINS. Near the top of the page, you state:

Not on this date, April 2, nor any other date for that matter, did John Dean ever express to me a belief that the President might be involved in a coverup or indeed that a coverup ever existed.

Was that statement true to you at the time it was prepared in June of 1973?

Mr. COLSON. Yes; and it is true today. John Dean, in any of the conversations I had with him throughout, never indicated that the President was involved in any way in the coverup.

¹ See p. 423.

² See p. 432.

³ See p. 434.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Waldie.

Mr. WALDIE. Mr. Colson, on your memo of June 20 for the file concerning Howard Hunt, when you showed that to John Dean, did John Dean suggest that had you submitted that to the prosecutor in any way, you, yourself, would have been incriminated?

Mr. COLSON. No, sir; he did not.

Mr. WALDIE. His only objection was that Mr. Magruder would be incriminated and, therefore, you should not submit it?

Mr. COLSON. Well, I can't even say that—he didn't leave me with the implication that he would be incriminated as such.

Mr. WALDIE. Well, what did he tell you?

Mr. COLSON. I remember him using the word "impeach" and I just thought, well, he is acting as my lawyer and I will do what he says. It seemed to me that I had answered all of the questions fully.

Mr. WALDIE. Let me interrupt you. The testimony you gave initially was that Dean said he wasn't going to forward it to the prosecutors and that you should destroy all your files because that memo would involve Magruder.

Is that your recollection?

Mr. COLSON. "Impeach" is what he said.

Mr. WALDIE. Well, that would involve him if he is impeached?

Mr. COLSON. Yes, sir.

Mr. WALDIE. And you went along with the coverup not to involve Magruder by submitting this to the prosecutor.

Mr. COLSON. Well, that is your characterization.

Mr. WALDIE. Well, tell me why you did not submit it to the prosecutor if it did not involve you and your attorney so advised?

Mr. COLSON. First of all, Mr. Dean was the man through whom all contacts were had with the prosecutors.

Mr. WALDIE. Was he your attorney?

Mr. COLSON. I certainly viewed him as such because he had escorted me to my grand jury deposition, had advised me on—

Mr. WALDIE. But was he advising you in terms of this memo in terms of your protection or Magruder's protection that it not be filed?

Mr. COLSON. I simply followed his advice because he had been advising all of us from the outset.

Mr. WALDIE. I understand. You just finished telling Mr. Wiggins that you did not believe—in fact, you were quoted—that Dean had advised the President of coverup "or indeed that a coverup ever existed."

Do you believe that, that a coverup never existed or that Dean was not participating in a coverup?

Mr. COLSON. Well, I now know that he obviously was.

Mr. WALDIE. Did you know that on August—

Mr. COLSON. No, sir.

Mr. WALDIE. Why did you feel, then, that he did not desire—

Mr. COLSON. Maybe I should have.

Mr. WALDIE. Well, why did you feel that he did not desire to have Magruder impeached by your memorandum? Why was he so concerned for Magruder?

Mr. COLSON. I frankly didn't give it the thought and attention that I should have at the time.

Mr. WALDIE. No, you did not.

Mr. COLSON. I did not. I agree with you.

Mr. WALDIE. Did you submit at that time the travel vouchers that the prosecutor had sought from you during his interrogation or deposition of you?

Mr. COLSON. Yes, sir, I did.

Mr. WALDIE. The travel vouchers that you mentioned in this memo of June 20, in addition to the two that you had told him about? Did you submit the additional travel vouchers?

Mr. COLSON. I submitted all the travel vouchers, everything in my files.

Mr. WALDIE. Those that you had forwarded to Dean along with this memo to be submitted to the prosecutor?

Mr. COLSON. Everything that was in my files, yes, sir.

Mr. WALDIE. That is not what I asked you. You forwarded to Dean this memo and the travel vouchers and said he might submit them to Silbert if he felt it was proper.

Mr. COLSON. No, sir, I did not say that.

Mr. WALDIE. That is your memo that I have here, August 9.

Mr. COLSON. No, the memo says you may want to submit my June 20 memo in that it will amplify and clarify answers I submitted yesterday. The travel vouchers I submitted independently and they were all turned over to the FBI by Mr. Dean.

Mr. WALDIE. So all the travel vouchers mentioned in your memo of August 29 to Mr. Dean were forwarded to the prosecutor?

Mr. COLSON. To my knowledge, that is correct, yes.

Mr. WALDIE. By whom, you or Mr. Dean?

Mr. COLSON. I submitted them to Mr. Dean, who, as I recall, delivered them to the FBI.

Mr. WALDIE. And do you recall when?

Mr. COLSON. I think immediately.

Mr. WALDIE. He delivered this memo to the Special Prosecutor, I presume, sometime in April of 1973.

Mr. COLSON. No, that is not true, sir. I delivered this to the prosecutor in April of 1973.

Mr. WALDIE. That is the first time the prosecutor saw this memo, in April of 1973?

Mr. COLSON. Yes, sir, when I delivered it to him.

Mr. WALDIE. You held it, then, from the time—well, you held the information from the time you received it, which would be June 20. You never revealed the information concerning the Liddy-Hunt meeting in your office to anybody except Dean—

Mr. COLSON. That is not true.

Mr. WALDIE. To whom else, with whom else did you discuss that meeting with Liddy and Hunt in your office?

Mr. COLSON. I testified to it in the grand jury in August 1972.

Mr. WALDIE. I mean—

Mr. COLSON. August of 1972.

Mr. WALDIE. Oh, you testified to the grand jury about that?

Mr. COLSON. As I explained earlier, I don't have any grand jury testimony, but I have read it and what I said was that Hunt and Liddy met with me in my office.

Mr. WALDIE. Did you tell him about the phone call to Magruder?

Mr. COLSON. He changed the subject immediately after that and that is why I intended to send this memo down, to amplify my testimony.

Mr. WALDIE. Oh, I am sorry. I assumed that was your interview.

When did you next tell anybody about the telephone call to Magruder?

Mr. COLSON. It next came up in a conversation on March 23 with Mr. Haldeman when he raised it for—with me for the first time it had been raised since I testified in August and since I met with——

Mr. WALDIE. May I just ask you a last question?

Mr. COLSON. Yes, sir.

Mr. WALDIE. Did you purposefully not mention in your grand jury testimony the telephone call to Mr. Magruder because of your desire to continue keeping Mr. Magruder's involvement away from the prosecutor's knowledge?

Mr. COLSON. I don't think you understand my relationship with Mr. Magruder.

Mr. WALDIE. OK, then, the answer is no.

Mr. COLSON. If he was responsible, I wanted to see him flushed out along with anybody else who was responsible.

Mr. WALDIE. Were you aware of his testimony before the grand jury?

Mr. COLSON. No, sir.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WALDIE. May I ask this final question, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. WALDIE. I was right in the middle of it when you started.

The CHAIRMAN. Go ahead.

Mr. WALDIE. You had no knowledge that Mr. Magruder perjured himself before the grand jury?

Mr. COLSON. None whatsoever.

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. Thank you, Mr. Chairman.

Mr. Colson, in your memorandum dated March 30, 1972, to Mr. Haldeman on the subject of the ITT at page 3378, paragraph 3,¹ you referred to a memo dated May 5, 1971, from Mr. Ehrlichman to the Attorney General which has been marked as Colson's exhibit 23 in our record, I believe. Is that correct?

Mr. COLSON. Yes, sir, we have the memo here.

Mr. DENNIS. In that memo, Colson's Exhibit 23, Mr. Ehrlichman says in his memorandum to the Attorney General, "I would like to arrange with Dick McLaren about the present status of the ITT cases."

Do you know whether or not he ever got together with Mr. McLaren as there suggested?

Mr. COLSON. I don't from my own knowledge, Mr. Dennis, know that. I don't have that memo of May 5 in front of me, but I know that I saw it for the first time, I think, when I was preparing this memo. I don't know whether I asked—I talked to Mr. Ehrlichman about it at the time or not.

¹ See p. 387.

Mr. DENNIS. Your answer is you don't know?

Mr. COLSON. I don't know.

Mr. DENNIS. All right.

Mr. Ehrlichman goes on to say in that memo, "I'd like to talk with Dick McLaren about the present status of the ITT cases in order that we can achieve the agreed-upon ends discussed by the President with you."

Do you know what the agreed-upon ends were which are referred to there?

Mr. COLSON. Not of my personal knowledge, no, sir.

Mr. DENNIS. All right, sir.

In your testimony to Mr., answering Mr. St. Clair, you stated that the President never expressed a desire that I do anything to prejudice Ellsberg's trial. Is that a true and correct statement?

Mr. COLSON. Yes; it is, sir.

Mr. DENNIS. You testified yesterday that Mr. Bittman told you and also told Mr. Shapiro that the final payment to him in Mr. Hunt's behalf was made on March 20 rather than March 21, is that correct?

Mr. COLSON. I think what Bittman said is before March 21.

Mr. DENNIS. All right, before March 21. Did he give you at that time any reason for setting it before March 21?

Mr. COLSON. No, he was unequivocal about it, however.

Mr. DENNIS. He was unequivocal about it, and also with Mr. Shapiro, is that correct?

Mr. COLSON. Yes, sir.

Mr. DENNIS. And later, he changed and told you he didn't know whether it was before March 21 or not, is that correct?

Mr. COLSON. Yes, sir.

Mr. DENNIS. And did he give you any reason for his change of mind?

Mr. COLSON. No.

No, he did not.

Mr. DENNIS. Mr. Chairman, I will reserve the balance, if any, of my time.

The CHAIRMAN. The gentleman has two minutes remaining.

The Chair will recess until 1:30.

[Whereupon, at 12:12 p.m., the hearing was recessed, to reconvene at 1:30 p.m., this same day.]

AFTERNOON SESSION

The CHAIRMAN. At the time the committee recessed the gentleman from Indiana had 2 more minutes remaining.

Mr. DENNIS. Which I reserve, Mr. Chairman.

The CHAIRMAN. All right. Mr. Flowers.

Mr. FLOWERS. Thank you, Mr. Chairman.

Mr. Colson, I believe your testimony is that in, and apparently I would draw this conclusion without your statement to this effect, that you had a close relationship with the President in the operation of the White House office and the assignments that you had, that you had the capacity to talk to him 1-to-1 about many things from time to time, that you were one of the very, very few people that did not have to go

through Mr. Haldeman with everything you approached the President about. Is that a fair assessment?

Mr. COLSON. That is certainly for the year 1972. The relationship developed into that over a period of time.

Mr. FLOWERS. In other words, this was not your relationship from your earlier days in the White House, but it worked into that kind of a relationship?

Mr. COLSON. It did, sir.

Mr. FLOWERS. Now, aside from yourself, and obviously Mr. Haldeman, who would you agree was the closest to the President, spent how much time with the President, and yourself included and any of the others.

Mr. COLSON. Yes, sir.

Mr. FLOWERS. Who besides yourself and Mr. Haldeman then had this kind of a relationship with the President?

Mr. COLSON. Mr. Ehrlichman did, and obviously Dr. Kissinger, General Haig.

Mr. FLOWERS. That was sort of derivative of Dr. Kissinger's relationship at this time, was it not?

Mr. COLSON. He still had a lot of independent access to the President. Ron Ziegler, of course, on press matters. I would say that was about it, Mr. Flowers.

Mr. FLOWERS. Now, all of you to a greater or lesser degree, the persons you have named then, had opportunities to, as I would say, go 1-on-1 with the President and at various and sundry times?

Mr. COLSON. Yes, sir.

Mr. FLOWERS. Without being filtered through Mr. Haldeman?

Mr. COLSON. Yes, sir.

Mr. FLOWERS. Now, you have testified as to your, shall I use the word affection for the President and your closeness to the President. Now, was this closeness that I assume you felt for the President, was there a similar closeness between yourself and amongst the staff members for each other, or were there some basic problems among some of the staff members?

Mr. COLSON. Oh, I would say there were the normal rivalries and jealousies and sort of infighting that I guess goes on in every organization of that kind. And I understand from a friend of mine who has worked for other Presidents it has been characteristic of the White House.

Mr. FLOWERS. You don't think that the kind of infighting that was prevalent in the White House was unusual then?

Mr. COLSON. Well, I don't have any basis of comparison other than what other people have said. But, Mr. Haldeman and Mr. Ehrlichman were very close. Obviously Dr. Kissinger and General Haig were very close.

Mr. FLOWERS. Were you close to Mr. Haldeman and Mr. Ehrlichman?

Mr. COLSON. No, sir.

Mr. FLOWERS. Were you close to any of the other people in the White House staff operation?

Mr. COLSON. Bryce Harlow was my friend of many years' standing. Through him I originally came to the White House.

Mr. FLOWERS. Well, primarily talking about the group that had access to the President?

Mr. COLSON. No, sir.

Mr. FLOWERS. Was there similarly, Mr. Colson, a more or less infighting and jealousies, whatnot between the White House staff and the committee to re-elect the President's staff?

Mr. COLSON. To a very great extent, yes, sir.

Mr. FLOWERS. There were jealousies that occurred amongst the White House staff. Were they magnified vis-a-vis the committee staff?

Mr. COLSON. Well, there were—they were the normal rivalries between the candidates, the President's staff and the campaign operation that had been set up.

Mr. FLOWERS. Did you know Mr. Magruder very well?

Mr. COLSON. I knew him fairly well, yes, sir.

Mr. FLOWERS. From his work in the White House?

Mr. COLSON. Yes, I did.

Mr. FLOWERS. He worked for Haldeman, is that correct?

Mr. COLSON. He worked originally for Mr. Haldeman and then for Mr. Kline, yes.

Mr. FLOWERS. In the staff operation in the White House were you answerable to any one of the other staff members, Mr. Haldeman or Mr. Ehrlichman?

Mr. COLSON. I was—was he or was I?

Mr. FLOWERS. Were you.

Mr. COLSON. I was answerable to Mr. Haldeman, yes, sir.

Mr. FLOWERS. Were all of the other staff members answerable to Mr. Haldeman?

Mr. COLSON. In varying degrees, yes.

Mr. FLOWERS. All right, sir. Now, Mr. Colson, when did you become aware, having in mind all of your closeness, one with another to varying degrees and with the President in the whole operation there, when did you become aware of the existence of the \$350,000 cash fund that Mr. Haldeman had in his control?

Mr. COLSON. When I read about it in the newspapers when it first was published. Well, I heard the allegation when it was first published I guess during the campaign.

Mr. FLOWERS. During the 1972 campaign?

Mr. COLSON. I think it was—I think there was an allegation to that effect. I didn't know about the fund.

Mr. FLOWERS. And your natural curiosity to know what's going on elsewhere in your bailiwick didn't whet your appetite?

Mr. COLSON. Well, it wasn't in my bailiwick, first of all, and second, I was busy enough with my own responsibilities not to worry about other people, and it wasn't anything to do with me, and I didn't pursue it after I read about it. I don't think I really knew the details of it until I read the testimony last summer.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Fish.

Mr. FISH. Thank you, Mr. Chairman.

Mr. Colson, I believe that you went before the grand jury on August 27, 1972?

Mr. COLSON. August 28 I think it was, 1972, Mr. Fish, and it was a deposition I gave under oath to the first Watergate grand jury, which I gave to Mr. Silbert.

Mr. FISH. And prior to the August 28, just prior to that time, had you met with Mr. Silbert and the prosecutors and answered their questions?

Mr. COLSON. Well, the procedure for that, Mr. Dean took me over to the Justice Department, we had an informal question and answer session with Mr. Silbert, and then Mr. Dean left the room and Mr. Silbert propounded the questions to me that we had discussed, and I gave them into a machine under oath.

Mr. FISH. Do you recall telling Mr. Silbert about the matter of Hunt interviewing Dita Beard?

Mr. COLSON. As I remember it, he asked me about trips, and I said that I had sent, I had sent Mr. Hunt out to interview, to conduct interviews during the ITT investigation.

And then she said, we don't care about that. I mentioned that that trip had taken place, and I don't know, I don't know how much detail I got into.

Mr. FISH. Did he ask you and did you give him any information in response about wiretaps?

Mr. COLSON. Did he ask me?

Mr. FISH. And did you give him any information in response about wiretaps?

Mr. COLSON. I don't have a copy of my grand jury testimony here. I don't recall him asking me about that; no.

Mr. FISH. Do you remember telling him about the Brookings Institute episode plan in the White House?

Mr. COLSON. No, I don't think he asked me about that.

Mr. FISH. But you didn't volunteer.

Mr. COLSON. No. I answered all of his questions. I did volunteer some information during the course of that, but—

Mr. FISH. But that wasn't it?

Mr. COLSON. No.

Mr. FISH. Did he ask you or did you respond or perhaps volunteer information regarding the Diem cables?

Mr. COLSON. No, sir.

Mr. FISH. On the same question with regard to whisking Dita Beard out of town?

Mr. COLSON. I had never heard about that.

Mr. FISH. And I think you have testified that you were not asked nor did you say anything volunteered about the Fielding break-in?

Mr. COLSON. That's correct.

Mr. FISH. Mr. Chairman, I would like to reserve the balance of my time.

The CHAIRMAN. Mr. Mann.

Mr. MANN. Thank you, Mr. Chairman.

Mr. COLSON, when did Howard Hunt go to work around at the Committee to Re-Elect?

Mr. COLSON. Well, I don't really know. I guess it must have been in February or January, Mr. Mann. I first realized that he was working

over there in March, and then I suggested to my assistant we check out to be sure that he was taken off the White House payroll. I don't think I—I don't think I knew that he was actually over there until March, although I think the facts are that he was over there before then.

Mr. MANN. Do I recall correctly that he was supposed to have been present at the Attorney General's office when the discussion was had concerning electronic devices?

Mr. COLSON. Mr. Hunt was?

Mr. MANN. Yes.

Mr. COLSON. I don't believe that that was the testimony. I don't know that he was.

Mr. MANN. I don't either, but I am just wondering if you do.

Mr. COLSON. I think the testimony I have read is that he was not present, but I wouldn't have any way of knowing that firsthand. I think I have read that Mr. Liddy, I think Mr. Liddy was present.

Mr. MANN. Now, during 1972, who was the main person at the White House that was coordinating political matters with the Committee to Re-Elect?

Mr. COLSON. Well, during the early part of 1972, Mr. Haldeman and Mr. Mitchell used to meet regularly in Mr. Mitchell's office to discuss the relationship between the committee and the White House. Mr. Strachan, Gordon Strachan, who was Mr. Haldeman's assistant, who used to keep whatever paper flow there was between the two operations, he was responsible for that. We also had, as I mentioned in my testimony yesterday, a meeting twice a week with first, with Mitchell, and then later with MacGregor, Harlow, Haldeman, Ehrlichman and myself, which met twice a week to discuss sort of the campaign strategy and problems that come up between the two, and the White House and the committee would be discussed there. And then finally there was a group that met in my office each morning, beginning around July, which was to coordinate the scheduling and speaking, and the press arrangements for administration and for campaign officials.

Mr. MANN. Who is the individual that was communicating these discussions or questions of liaison with the President?

Mr. COLSON. Well, I think to the extent anybody was, it would be Mr. Haldeman or myself. I guess we—we had some meetings during the campaign itself with the President, with Clark MacGregor and myself, Haldeman, John Connally.

Mr. MANN. Do you know what—

Mr. COLSON. I don't know who on a regular basis. If something came up, whenever one of us was involved, we would bring it up with the President if we thought we could. The problem, something we were discussing with Mr. St. Clair this morning, was that during that early part of 1972, the President was in China, and then the Soviet Union, and none of us got much chance to talk about the campaign with him.

Mr. MANN. Now, you referred to the fact that I believe in early June of 1972 the President expressed dissatisfaction to you about the information that was coming in about the action of the Democratic candidates, and the suggestion was made by either you or him that some reporters be identified who could furnish a little G-2; is that correct?

Mr. COLSON. Yes, sir.

Mr. MANN. All right, then based upon that desire for information gathering, how do you interpret the President, and I know you have already interpreted it to an extent, how do you interpret his response to the bungling of the information gathering process going on around at the Democratic headquarters as being a surprise that it was attempted?

Mr. COLSON. Well, there is a whale of a difference between trying to get a reporter to tell you what's going on on the campaign trail, and going in with bugging equipment into the headquarters of the Democratic National Committee. I mean, that's—

Mr. MANN. Was it or was it not consistent with the objective that the President indicated to you 2 or 3 weeks earlier?

Mr. COLSON. No; quite to the contrary. When the President indicated to me, as I have thought back on it, it would show a very distinctive lack of knowledge on his part that somebody had already set in motion that very sophisticated intelligence plan. One is illegal and one is legal, as a matter of fact, which is probably one of the biggest differences of all, Mr. Mann.

Mr. MANN. Yes, sir.

Now, with reference to your memo to Murray Chotiner, which we referred to as book 6, item 10.1¹ dated November 3, 1970, you were suggesting to Mr. Chotiner that he advise his friend, Harrison, who was a lawyer for AMPI, was he?

Mr. COLSON. I don't have it in front of me. Mr. Chotiner was not at that time—Mr. Chotiner was on the White House staff, but he had been dealing with these fellows from Reeves and Harrison, and that law firm. He had been dealing with AMPI and he had been dealing with them on some of the political questions.

Mr. MANN. All right now, reference has been made to your state of mind. Now, what was your state of mind when you asked Mr. Chotiner to send word to Harrison about playing both sides?

Mr. COLSON. Well, you are talking about a memorandum that I wrote almost 4 years ago.

Mr. MANN. Well, prior to the writing of that memorandum, you had been told that, by the milk people, that \$1 million or \$2 million might be available, and you were avoiding any quid pro quo. That's correct; isn't it?

Mr. COLSON. Yes, sir. Trying to.

Mr. MANN. Well, did you or not though in this memorandum imply punitive measures which can be said to be a quid pro quid?

Mr. COLSON. If the reasons for the bad decision or adverse decision to them on imports was the fact that they were playing both sides of the street, you are right, the adverse decision on imports I knew was going to be made anyway, and I think what I had in mind was here's a good way to sort of ease the pain for them, to use this as a good excuse. I realize it can be read both ways.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Colson, in a discussion earlier today about the existence of the enemies list, I think it is fair to say that the purpose was more than

¹ See HJC, "Statement of Information," book VI, pt. 1, item 10.1, p. 214.

simply using this to select people to come to the White House for dinners; was it not?

Mr. COLSON. Well, I don't know what—you know, the term "enemies list" has been too broadly used.

Mr. COHEN. All right, the opponents list.

Mr. COLSON. The list we kept was called the opponents list, and the friends list, I guess.

Mr. COHEN. All right, but I think in reference to Mr. Edwards' question, you said you had not seen that list prior to the Senate committee?

Mr. COLSON. It depends. I said I had not seen the opponent activity priority list, which was the one I found particularly offensive, which Mr. Dean introduced with some 20 names on it. It is called opponent priority activity.

Mr. COHEN. Is it fair to say that this list was being kept for the purpose of using agencies such as the Internal Revenue Service, to either audit, harass individuals on that list?

Mr. COLSON. As to that list, you would have to ask the person who wrote it what it is, and it was introduced by Mr. Dean. I had never seen it when I was in the White House.

Mr. COHEN. I am looking at exhibit No. 49 in book 4 of the Senate committee,¹ a memo from you to John Dean, September 9, where you indicated you had checked in blue to whom you would give priority.

Mr. COLSON. Well, the way that we have gone through this with the staff, and it takes quite a while to do it——

Mr. COHEN. That is a different list?

Mr. COLSON. Yeah; it's a different list. What Mr. Dean apparently asked me for, or I think asked my assistant for, was to check off on the big list that we had opponents, those names which I considered the most prominent of the 20, or the most severe critics of the President.

Now, I know that there was, Mr. Dean had a project underway, and it was to single them out for some special treatment. I am sure I knew that at the time. I checked off 20 names. They don't happen to be the same 20 names—there's a little bit of overlap—but not the same 20 names that appeared on John Dean's finished product.

Mr. COHEN. OK.

I would like to discuss, just briefly, the question of clemency once again in dealing with Mr. Hunt. And I understood you did not want to have very many dealings with him to separate yourself so that you would be in a position to be able to testify on his behalf if you were called before a committee or whatever, that you did have a conversation in either October or November of 1972, which you recorded?

Mr. COLSON. Yes, sir.

Mr. COHEN. And during the course of that conversation, Mr. Hunt said that the stakes are very, very high. I just thought you would want to know that this thing must not break apart for foolish reasons, we are protecting the guys who are really responsible. As I understand it, that tape was then turned over to Dean who played it for Haldeman and Ehrlichman, and then Mr. Mitchell?

Mr. COLSON. I didn't know that.

¹ Hearings before the Senate Select Committee on Presidential Campaign Activities, book 4, p. 1692.

Mr. COHEN. I understand that, but that had been circulated at least, and then you had another letter from Mr. Hunt to which you responded with a "what the hell do I do now?" This all preceded your talking with Mr. Bittman, as I understand it, whereupon Mr. Ehrlichman had a conference with you and said don't make any commitments.

But, is it fair to say that he wanted you to convey the impression that you understood, were sympathetic, but would not make a commitment, is that correct?

Mr. COLSON. I think, as I have stated in my affidavit, that I had the feeling that he wanted me, Dean and Ehrlichman both wanted me to be sure that Hunt knew that I was still his friend and keep him happy.

Mr. COHEN. Right.

And when you did meet with Mr. Bittman in December, he told you that Hunt couldn't take a very long sentence and, in effect, says he has to be out by next Christmas, is that correct?

Mr. COLSON. I don't remember him using the word "Christmas," but he said he didn't know whether he could survive a long sentence, and he was concerned about it and thought maybe if he could look forward in a reasonable time, maybe a year to being back with his family, it wouldn't be too bad on him.

Mr. COHEN. Is it fair to say that Bittman was to understand that you got the message and you wanted him to carry that message or that impression back to Hunt and, indeed, he would be taken care of, at least conveyed the impression without saying it?

Mr. COLSON. No; as a matter of fact, it isn't in my affidavit, but one of the things I think that I recall saying to Bittman is, you know, be very certain nobody misunderstands what I am saying. I just will help as a friend, period.

Mr. COHEN. So I direct your attention then to the April 14 transcript. Do you have a copy of the transcripts, the Presidential transcripts?

Well, let me just read from page 542 of the copy that we have of the Presidential transcripts. On page 542, this is Ehrlichman talking—

I don't know that, but I know, for instance, that Bittman had a conversation with Colson that was a Watergate conversation. And I know what Colson says about it—that he was brilliant, and adroit, avoided any—

HALDEMAN. And he says Bittman's recollection of it would be exactly the same as Colson's—his recollection of the specific conversation—but he says Bittman may draw conclusions from it.

The PRESIDENT. This is the clemency conversation? And his conclusion would be that he felt the President had offered clemency?

HALDEMAN. No, his conclusion, he, Colson, will have Hunt out by Christmas. He says, you know what kind of pull I have at the White House. I will be able to work that. That's what he would have thought.

Meaning Bittman.

Do you agree with that conclusion placed upon it by Mr. Haldeman or Mr. Ehrlichman?

Mr. COLSON. No; I said in my affidavit, Mr. Cohen, that Mr. Bittman may well have inferred that I would do everything I could to help, and that I would have influence in the White House and could speak on behalf of his client. That's a lot different than sitting there and saying you just tell your client to keep his mouth shut and I will get him out of jail. That's not what I said. I said just the opposite. I said, go defend your client, do whatever you can, and I am not just going

to say anything to you other than just on a personal basis, that I want to help him. I haven't, I haven't read the transcript that the committee has prepared. I read the original White House version, and I think there are some 20-odd references to that discussion, and they are all different and confusing, and very contradictory.

Mr. COHEN. Were there any signals as such that were set up within, the people within the White House that would convey the impression of clemency? And again I refer to the transcript for your edification on page 503 where the President is talking about clemency possibly for Magruder, and he says, "Also, I would first put it in so that he knows I have personal affection. That's the way the so-called clemency's got to be handled."

Were there other types of code words or signals that could be communicated without saying the word "clemency"?

Mr. COLSON. Not to my knowledge, Mr. Cohen.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Sarbanes.

Mr. SARBANES. Mr. Colson, when did you leave the White House as a full-time staff person; do you recall?

Mr. COLSON. I left the White House March 10, 1973.

Mr. SARBANES. But you stayed on or remained on, you were put on as a consultant; is that correct?

Mr. COLSON. Technically. I never did any consulting and I never filed any requests for reimbursement as a consultant.

Mr. SARBANES. Well, did your technical status as a consultant terminate at some point subsequent thereto, or are you still technically a consultant?

Mr. COLSON. No; it terminated a few months thereafter. I don't know the date but did we supply it to the staff? We have either supplied it to the Special—we supplied it to the Special Prosecutor. It was a matter of a few months.

Mr. SARBANES. Now, at what point did you go to Mr. Shapiro and seek his counsel and representation with respect to the various matters in which you were involved?

Mr. COLSON. Early February I began to talk to Mr. Shapiro because I expected to join his law firm, and I started to talk over these matters with him and to confide in him because I thought I wanted his advice.

Mr. SARBANES. In other words, in February, in early February of 1973, you, in effect, I take it, began the process or whereby Mr. Shapiro ended up representing you?

Mr. COLSON. That's right. It started informally, Mr. Sarbanes, in the sense I was going to join the firm. I was beginning to get troubled by what was going on, and I thought that I would discuss it with Mr. Shapiro.

Mr. SARBANES. Well, now, at this time, to your knowledge, did any other members of the White House staff have counsel with whom they were in consultation?

Mr. COLSON. I just don't know. I don't think so, but I don't know.

Mr. SARBANES. And then how often would you consult with Mr. Shapiro then? Was it on a daily basis or a frequent basis?

Mr. COLSON. Just whenever we would have a chance to get together and talk. We were talking about—that was in the 2-week period prior to my leaving for Europe. I knew upon my return from Europe I

would be leaving to practice law, and Dave and I got together, maybe a half a dozen times.

Mr. SARBANES. Now, prior to that time you had had no consultations with him about this matter, no discussion about it?

Mr. COLSON. No; I think it started in early February, sir.

Mr. SARBANES. I take it you were not aware that the conversations with the President were being taped, were you?

Mr. COLSON. No, sir, I was not.

Mr. SARBANES. Did you at the time have any suspicion that they might be taped—that taping might be taking place?

Mr. COLSON. A couple of times I did or should have, I guess, but once I did when I thought I heard a clicking on the telephone, and I reported it to Mr. Butterfield and asked him to have the Secret Service check and see if anybody was recording a conversation. Probably the changing of the reel, I guess.

Mr. SARBANES. Are you aware now of what conversations were taped?

Mr. COLSON. Not really; not of my own personal knowledge. I have read Butterfield's testimony. I read first that some were taped beginning in 1970, and then I think I read it was installed in 1971. I don't know.

Mr. SARBANES. With respect to location rather than with respect to time, are you aware of what conversations in what location would be taped?

Mr. COLSON. I have seen what's been published about diagrams of where the microphones were in the Oval Office and the EOB and telephones—Camp David, I guess. Just what I have read.

Mr. SARBANES. Fine.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Lott.

Mr. LOTT. Mr. Colson, I just want to take this opportunity to thank you for coming and testifying before the committee on these two grueling days.

Mr. COLSON. Thank you, sir.

Mr. LOTT. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. Mr. Seiberling.

Mr. SEIBERLING. Thank you, Mr. Chairman.

Mr. Colson, I understand that in interviews with the committee staff you have said that there was a desire at the White House to protect the President from knowing about surly things and that the President fostered this desire, and at times the President would say things like I want to get something done in this area, but I don't—but don't let me know about it. Is that correct in substance?

Mr. COLSON. Yes, sir.

Mr. SEIBERLING. Now, is it also true that another White House rule or practice was to keep the President's name out of things; that is, the staff was never supposed to say the President has ordered that, or hardly ever, but to indirectly get that across?

Mr. COLSON. Yes, sir.

Mr. SEIBERLING. Thank you.

Now, did you attend the meeting on June 23, or July 1, 1971, with the President and Mr. Haldeman in which the President stated that he

did not give a damn how the leaks were prevented, so long as the job got done, and that he didn't want to hear that it could not be done?

Mr. COLSON. Yes, sir. There were—I can't place the date of the meeting; I know it was late June. I recall two of three discussions like that with the President. One I have alluded to in my April 29 affidavit, which was filed in the Ehrlichman case in the district court, and I paraphrased some discussions with the President during that period. I didn't put quotes on it because I am only paraphrasing, but there were a number of those kinds of discussions in the 2-week period that was the aftermath, Mr. Seiberling, of the release of the Pentagon Papers.

Mr. SEIBERLING. Thank you.

Now, did I understand you to say that the President made the decision to prosecute Mr. Ellsberg?

Mr. COLSON. I don't know who made that decision, sir. I don't think I said that because I don't know the answer.

Mr. SEIBERLING. Do you have reason to believe that political considerations of the type outlined in your memorandum of June 25, 1971, entered into the decision to prosecute?

Mr. COLSON. I don't know who made it, so I would be hard put, I guess, to give you a good answer to that.

Mr. SEIBERLING. Oh, I see.

Now, is it true, however, that on July 9 you received a memorandum from a member of your staff raising legal and moral issues in connection with your memorandum of June 25?

Mr. COLSON. I think you would have to let that particular memorandum speak for itself, and the best thing I would recommend in that area is that if that subject is of interest, that you take a look at the memo and make that judgment yourself.

Mr. SEIBERLING. I would like to ask the committee staff whether we have a memorandum in the materials that have been presented to us, and if not, could we have that?

Mr. JENNER. Forgive me, Congressman Seiberling.

Mr. SEIBERLING. I understand on July 9, Mr. Colson received a memorandum from a member of his staff raising legal and moral objections to his memo of June 25, 1971, and I wondered if it would be correct or proper if we could have copies of that for our records?

Mr. JENNER. We do have a copy and it is entirely proper that the committee have copies, if the committee desires them.

Mr. DENNIS. Well, Mr. Chairman, I object to putting in the record the memo of some staff member of this witness expressing his moral views on something the witness wrote. I cannot see how it could be relevant or material to anything before this committee.

Mr. SEIBERLING. Now, I would like to ask Mr. Colson if he got such a memo and received it and read it?

Mr. COLSON. Did I get it and receive it and read it?

Mr. SEIBERLING. Yes.

Mr. COLSON. I am sure I must have gotten it. It was from a summer intern who was in between years at Yale, undergraduate, and Harvard Law School. It was a very long memo. I doubt that I read it very fully.

Mr. SEIBERLING. Well, it seems to me it has some bearing on Mr. Colson's motivation.

Now, Mr. Colson, you said that you were not asked to take any action that would prejudice Ellsberg's trial, and leaving aside, leaving aside the fact that you pled guilty to just such action, how do you reconcile this with your June 25 memo, and your talking about painting Ellsberg bad as part of his persecution, and your statement on January 1, 1971? I don't think it was January 1, but it's in your memo of your conversation with Hunt that the case will be tried in the newspapers, so it's going to take some resourceful engineering, and with your attack on Ellsberg's lawyers. How do you reconcile these two statements with the facts?

Mr. COLSON. Well, I have pled guilty to the charge of a course of conduct that could interfere with Daniel Ellsberg's trial. So——

Mr. SEIBERLING. Don't you think those things would prejudice Ellsberg's trial?

Mr. COLSON. Yes, indeed.

Mr. SEIBERLING. Thank you.

Now——

Mr. DONOHUE [presiding]. The time of the gentleman from Ohio has expired.

Mr. SEIBERLING. Mr. Chairman, could I just finish this question since I did have some time used up by Mr. Dennis?

On June 19 or 20, 1972, when you met with the President to discuss the Watergate break-in, did the President at that time discuss with you the fact that Mr. Hunt was an employee of the Committee to Re-Elect the President?

Mr. COLSON. I don't recall that we talked about—I don't know for sure whether we talked about Hunt. I imagine we must have because I had been scurrying around trying to find out his status, but I don't think——

Mr. SEIBERLING. Well, while you were finding out his status in the White House staff——

Mr. DONOHUE. The time of the gentleman has expired.

Mr. COLSON. I don't think so.

Mr. DONOHUE. Again expired.

Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Colson, you forwarded to Mr. Dean a letter that you had received from Mr. Hunt and you put a note on it, "what the hell do I do now?"

Why would you be asking that question of Mr. Dean?

Mr. COLSON. Well, from the day after the Watergate on, Mr. Hogan, from June 19 on, John Dean was acting as the President's counsel, as the counsel for the members of the White House staff, as the fellow who we all turned to, everybody, when anything came up about Watergate. I made it a standard practice, and you will see that all of my memos from June 19 on, from the very first memo I sent to Dean with the letter terminating Hunt from the payroll, everything that came in that had anything to do with Watergate or Hunt I sent to Dean. It was—he had the watch, so to speak.

Mr. HOGAN. Did he answer that note?

Mr. COLSON. I guess you would say that he indirectly did when he came to me in the mess. He never really referred to that letter, but

he came to me in the mess, the White House staff mess, the next day, June 3 or January 3, and he said I need to see you right away, something very urgent involving Hunt. So I suppose that you could draw that connection between it. But otherwise he did not answer it, no, sir.

Mr. HOGAN. To our knowledge, who was it who told Hunt to get out of town?

Mr. COLSON. The one who informed me that he had been told to get out of town was Dean, and that's when I exploded. I can't tell you that he said I have ordered him out of town, we have ordered him out, or he's been ordered out.

Mr. HOGAN. So, to your knowledge, you don't know who ordered him out of town?

Mr. COLSON. No; I don't know. No, sir.

Mr. HOGAN. There has been some testimony before the committee about what got to the President through Haldeman, and what didn't get to the President through Haldeman. On the basis of your knowledge of White House operations, if Mr. Haldeman had made a mistake or fouled up on some activity, would he likely admit that and bring that to the President's attention, or would he likely try to isolate the President from that?

Mr. COLSON. Well, it's the kind of speculation that I really don't like to engage in. But, there were some other instances, and I think Bob was very reluctant to admit he made a mistake to anyone. He's by nature the kind of guy who doesn't like to acknowledge any errors, and I think he would be unlikely to do so.

Mr. HOGAN. Could you tell the committee what some of those instances were?

Mr. COLSON. Oh, I can remember some mistakes in scheduling and Bob said, don't, you know, this wasn't a mistake. We did it and don't go into this with the President. There were some things that I from time to time that I knew he had made mistakes with. He asked me not to talk about it. Bob just didn't like to admit that kind of a thing. I don't think anybody does.

Mr. HOGAN. Well, is it conceivable then that he and other White House staff people might have been engaged in certain activities following the Watergate break-in that the President had no knowledge of?

Mr. COLSON. Well, let me give you an illustration that I gave to the staff, Mr. Hogan.

We had a thing in the campaign called Chapman report, which was a very useless document. It would come 3 days after you had read the same stuff in the newspapers, and Murray Chotiner's girlfriend who was a reporter was sending this back from the campaign. I asked Mr. Haldeman if I could receive copies of that and he said yes, but under one strict instruction. And I said what's that. And he said, you don't tell the President where the information comes from if you ever discuss it with him, and I said that this is silly, this stuff is not that hot to begin with, and he said, that's the condition, if you discuss the Chapman report with the President, you don't identify it as the Chapman report or identify from where it came from.

Mr. HOGAN. Can you think of any other instances where things that were going on were shielded from the President?

Mr. COLSON. Oh, I guess if we had more than 5 minutes I could probably come up with some. It's hard. I mean, if I had a specific instance I could say, you know, this is one where I was told not to discuss it. It's difficult to pull them out of the air. My general impression is that there were the kinds of things, and some of it, as Mr. Sarbanes or Mr. Seiberling asked me, were things that the President didn't want to be told about.

Mr. HOGAN. So if there were a coverup going on at the White House, then it is possible that Haldeman and Ehrlichman and Dean and others might have been involved in this activity without the President having any knowledge of it?

Mr. COLSON. It's possible, yes, sir.

Mr. HOGAN. Thank you. I have no further questions, Mr. Chairman.

Mr. DONOHUE. Mr. Danielson.

Mr. DANIELSON. Who was Baroody?

Mr. COLSON. Baroody?

Well, there are several Baroodys.

Mr. DANIELSON. The Baroody to whom there was an indebtedness of some kind?

Mr. COLSON. That's Mr. Joseph Baroody. He's here in Washington, D.C., and it's a public relations firm of Wagner & Baroody.

Mr. DANIELSON. Were they the firm that would do some of the public relations work for the White House?

Mr. COLSON. Not—well, they did it for a sort of a pro bono publico. They were helping us and they were actually on retainer to the Republican National Committee. And we called upon them to help on many of the outside activities where we were trying to generate public support for various things.

Mr. DANIELSON. You referred I believe yesterday to having an indebtedness to the Baroody, to Baroody, and it had a connection with the \$100,000 worth of tickets from the AMPI group that they were going to buy for the dinner. Is that the same Baroody?

Mr. COLSON. Well, I don't know. He had nothing to do with the dinner. The indebtedness to Mr. Baroody was the \$5,000 that I had borrowed from him or asked him to advance when Mr. Ehrlichman called me.

Mr. DANIELSON. Thank you. I have got that.

Now, when did Mr. Chotiner come on the White House staff?

Mr. COLSON. He joined the staff, as I recall, late in—I'm sorry. He joined the staff in the spring 1970.

Mr. DANIELSON. And when did he leave?

Mr. COLSON. He left, I think, early March 1971.

Mr. DANIELSON. Regarding AMPI, the letter of Hillings, your comment, your memorandum sort of in response to that was they might be working both sides of the street. The expression both sides of the street came in. One side, I assume, of the street was the administration, and what was the other side of the street?

Mr. COLSON. Democrats.

Mr. DANIELSON. With respect to the Plumbers, you testified this morning that in addition to the Ellsberg operation, the Dr. Fielding operation, they did do some other operations, eliminating the forgery of the Diem cables.

Tell me what other operations, please, did they work in?

Mr. COLSON. Counsel, Mr. Adams, tells me there's a memo outlining some of the things.

Mr. DANIELSON. Why don't you test your memory first, and the gentleman can be looking up the refresher.

Mr. COLSON. Well, there was the investigation of the theft of the documents, and spying by the Joint Chiefs of Staff. I think the most significant in my mind at least was that they discovered the source of the SALT leak, the SALT leak in July, Friday, July 23, if my memory serves me.

Mr. DANIELSON. Of what year?

Mr. COLSON. 1971. It was a very serious compromise of foreign policy matters. That, plus the Joint Chiefs of Staff that Radford, Moorer controversy.

Mr. DANIELSON. When did they discover the SALT leaks?

Mr. COLSON. I think very shortly thereafter, as a matter of fact, there were polygraph tests conducted, and an investigation of a number of individuals who had been suspect in it. And as I recall, that was a matter of just a few weeks.

Mr. DANIELSON. When did they discover the Joint Chiefs of Staff?

Mr. COLSON. That came later in the year.

Mr. DANIELSON. The same year?

Mr. COLSON. Yes, sir, 1971.

Mr. DANIELSON. 1971.

How many employees did the Plumbers unit have?

Mr. COLSON. I only know what I have read about it.

Mr. DANIELSON. You know that Mr. Young was there?

Mr. COLSON. Yes, sir.

Mr. DANIELSON. And Mr. Krogh?

Mr. COLSON. Yes, sir.

Mr. DANIELSON. And a lady who was a secretary?

Mr. COLSON. Right.

Mr. DANIELSON. And Liddy?

Mr. COLSON. Liddy, Hunt.

Mr. DANIELSON. And Hunt.

Mr. COLSON. I don't know whether there was anyone else or not.

Mr. DANIELSON. Young was still on the National Security Council payroll, was he not?

Mr. COLSON. That's my understanding.

Mr. DANIELSON. And Krogh was still on his regular White House staff payroll?

Mr. COLSON. I would assume so; yes, sir.

Mr. DANIELSON. And where did you get—there was no separate payroll set up for the special unit, as I understand it?

Mr. COLSON. I wouldn't know if there was or wasn't.

Mr. DANIELSON. Do you know if they had any physical facilities except room 16?

Mr. COLSON. My understanding is they were operating out of room 16; yes, sir.

Mr. DANIELSON. And their technical facilities were probably those that Mr. Hunt could scrounge from CIA, isn't that a fact?

Mr. COLSON. I would assume so. I don't know what else they had. Obviously polygraph equipment.

Mr. DANIELSON. Well, where did they have that?

Mr. COLSON. I know they had it. I don't know where it was. I think they used FBI or the State Department. I don't really know. I don't have firsthand knowledge of it.

Mr. DANIELSON. When were they dissolved, or did they go out of existence as the case may be?

Mr. COLSON. My understanding is later in the year of 1971, toward the end of the year.

Mr. DANIELSON. Very well. Thank you.

I will reserve the balance of my time.

Mr. DONOHUE. The time of the gentleman has expired.

Mr. Froehlich.

Mr. FROEHLICH. Mr. Chairman, I am waiting for some staff information and I reserve my time at this time.

Mr. DONOHUE. Mr. Drinan.

Mr. DRINAN. Mr. Colson, on June 21, 1974, you stated in open court:

As another specific offense charged, the President on numerous occasions urged me to disseminate damaging information about Daniel Ellsberg, including information about Ellsberg's attorneys and others with whom Ellsberg had been in close contact.

How numerous or how many is numerous?

Mr. COLSON. Well, we discussed, Father Drinan, the question of congressional hearings on, perhaps on half a dozen times.

Mr. DRINAN. On six occasions, and he urged you to disseminate damaging information?

Mr. COLSON. Well, I would say that what I said is about half a dozen times we were talking about congressional hearings. I am estimating—

Mr. DRINAN. It was no more than six?

Mr. COLSON. Well—

Mr. DRINAN. You said numerous. Why not several or many?

Mr. COLSON. You could—the adjective I selected was numerous.

Mr. DRINAN. What do you mean by acknowledge?

How did he acknowledge it? What did he urge you to do?

Mr. COLSON. We were talking about problems that had been created by the leak of the Pentagon papers, the problems that had been created by other threatened leaks, and the President would say, you know, we have just got to get to the bottom of this, we have got to get this issue aired publicly, we have got to get hearings held, now, Chuck, what are we doing with getting those hearings held. That was the kind of a thing the President—

Mr. DRINAN. Well, that is not really what you said in your testimony. You said that he urged you, the President did, to disseminate damaging information. Do you think that the President as a citizen and as an attorney could have known or should have known that he was urging a crime, as it turned out?

Mr. COLSON. Well, it wasn't a crime in 1971, Father Drinan. No one had ever pleaded guilty to that specific—

Mr. DRINAN. Title 18, section 153—

Mr. COLSON. My case, however, stands as the first case for that section or principle. At that time, it was not a crime. At least no one had determined it to be a crime. I hope from now on, people will.

Mr. DRINAN. Mr. Colson, you indicated in your statement elsewhere that you were extraordinarily obedient to the President. Why, there—

fore, did he have to urge you on numerous occasions to put out this damaging information?

Mr. COLSON. Because I hadn't been successful in persuading any of your colleagues here on the Hill to start the hearings.

Mr. DRINAN. What else did you want to do besides start hearings? The hearings, I hope, would do more than put out damaging information.

Mr. COLSON. The trouble is we all get hung up on the adjectives of "damaging," "derogatory," "defamatory." We were trying to get the truth of what was going on and it was very difficult to do, Father Drinan. One process we selected, which I am sure you would not disagree with, was the idea of having congressional hearings.

Mr. DRINAN. On June 3, in the plea, Mr. Merrill stated this. He refers to the memo of Ellsberg's attorney as "libelous." You were asked if you accepted this statement as a true statement of the fact and you said "Yes."

Do you still, therefore, say that you put out nothing untrue about Mr. Ellsberg or his attorney? He says it is libelous and you said, "I agree."

Mr. COLSON. I am not much of a libel lawyer, never have been. But I think the truth can still be libelous. I am not sure of the——

Mr. DRINAN. Title 18, section 1503 of the United States Code says, "Whoever endeavors to influence," and so on. Why should not the President, who urged you on numerous occasions to do this, why should he not also be indictable under that section?

Mr. COLSON. That statute, first of all, I wasn't indicted under.

Mr. DRINAN. I am sorry, sir, you are right.

Mr. COLSON. I walked into the Prosecutor's Office and said, I want a plea because I want to be free to talk and help the country get the truth of what went on and resolve this controversy. Let me pick a defense that I can in conscience and honesty say I did do. This is one I did do. I didn't do the others I was accused of and I couldn't plead to them and I couldn't plead to lesser included offenses. I would have been better off if I had been able to, I guess, in terms of what happened to me personally.

I also wanted to establish the principle that this not be done again in the future and anybody who feels as strongly as I do about it can walk into the Prosecutor's Office and tell them they have violated the statute by putting out derogatory information about a defendant or potential defendant and I think the Prosecutor will accept their plea.

Mr. DRINAN. In your memo of March 30, 1972, which is in the record of the SSC, you stated that the memo of Ehrlichman on May 5, 1971,¹ you said must never come out and this is why you are urging that the Kleindienst nomination be withheld or withdrawn, and in this memo, you state that the memo once again contradicts Mitchell's testimony and more importantly, that directly involves the President.

What is in the memo?

Mr. COLSON. I think you have the memo here as an exhibit.

Mr. DRINAN. All right.

Tell us why you thought it would be so damaging and what did the President say about it?

[The March 30, 1972, memorandum referred to above was submitted for the record, and follows:]

¹ See Colson exhibit No. 23, p. 396.

EXHIBIT No. 121

March 30, 1972

MEMORANDUM FOR: H.R. HALDEMAN
FROM: CHARLES COLSON
SUBJECT: ITT

There are four points in the analysis you outlined to MacGregor and me this morning with which MacGregor, Wally Johnson and I disagree:

1. Mitchell, Kleindienst or Mardian dealing with Eastland and MacGregor presumably dealing with the other members of the Committee guarantees a divided approach. One or the other has to call the shots. Kleindienst has already this morning told MacGregor that he, MacGregor, should not deal with any of the other Republican Senators (Scott, Cook, etc.) but rather should deal only through Hruska. In the kind of day-to-day operation this is, that is simply an untenable arrangement.

I know you and the President are concerned that all of us are taken away from other more important matters. You should be, however, equally concerned that Mitchell in the last 30 days has done little with respect to the campaign and that may be a more serious loss than MacGregor's time and mine.

2. On the one hand, you have the assessment of Kleindienst, Mardian and Mitchell as to what will happen in the Committee and on the Floor. On the other hand, you have the legislative assessment of MacGregor, Colson and Johnson which is very different. (Johnson spent from 1968-1970 as Minority Counsel of this same Committee and has been involved in all of the confirmation battles of this Administration either from the Committee end or from the Justice Department end. He left the Committee to go to Justice in 1970. MacGregor spent 10 years in Congress. I spent 5 years as a senior Senate assistant and 9 years in law practice, involving very considerable contact with the Hill. The Justice team simply has not had the same experience.)

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Admittedly it is all opinion at this point. Mr. Johnson, MacGregor and I unanimously do not believe that Kleindienst can be confirmed by June 1. Johnson does not feel he can be confirmed at all and on this point I am at least doubtful. I emphasize that this is an opinion and a judgment call. Lots of things could happen: We could get a big break in the case; the media could turn around and become sympathetic to Kleindienst; the Democrats could decide that they are better having him in the job than beating him. Obviously, there are many unforeseen possibilities, but as of now that is our best assessment. I would think that whatever decision we make now should be based on the most knowledgeable -- and I would add the most detached -- assessment of our legislative prospects.

Wally Johnson has done a detailed analysis of the various procedural moves that are likely to be made in Committee or on the Floor. He is not shooting from the hip. He has analyzed it and a Senate vote in his judgment cannot be achieved by June 1; the Democrats will only let it come to a vote if they have votes to reject Kleindienst, which is the least desirable outcome. Neither Johnson, MacGregor or Colson are prepared to predict whether we can hold the votes necessary to confirm him should the nomination in fact get to a vote.

3. Assuming MacGregor, Johnson and Colson are correct, then setting June 1 as our deadline date merely puts the hard decision off to a time when it will be considerably more volatile politically than it is today. Kleindienst's withdrawal will then be an admission of defeat but it will come two months closer to the election. There will have been two months more of rancor and publicity. In June Kleindienst will be a hot issue for the Democratic Convention. Confirmation of Kleindienst's replacement will also be vastly more difficult in June than it would be now. Obviously this again is opinion.
4. The most serious risk for us is being ignored in the analysis you gave us this morning -- there is the possibility of serious additional exposure by the continuation of this controversy. Kleindienst is not the target; the President is, but Kleindienst is the best available vehicle for the Democrats to get to the President. Make no mistake, the Democrats want to keep this case alive -- whatever happens to Kleindienst -- but the battle over Kleindienst elevates

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the visibility of the ITT matter and, indeed, guarantees that the case will stay alive. It may stay alive in any event and hence the key question not addressed in your analysis is whether pendency or withdrawal of the Kleindienst nomination serves to increase the Democrat's desire to continue. That is the hardest call to make but for the following reasons it may be the most important point to make.

Niether Kleindienst, Mitchell nor Mardian know of the potential dangers. I have deliberately not told Kleindienst or Mitchell since both may be recalled as witnesses and Mardian does not understand the problem. Only Fred Fielding, myself and Ehrlichman have fully examined all the documents and/or information that could yet come out. A summary of some of these is attached.

1. Certain ITT files which were not shredded have been turned over to the SEC; there was talk yesterday in the Committee of subpoenaing these from ITT. These files would undermine Griswold's testimony that he made the decision not to take the appeal to the Supreme Court. Correspondence to Connally and Peterson credits the delay in Justice's filing of the appeal to the Supreme Court in the Grinnell case to direct intervention by Peterson and Connally. A memo sent to the Vice President, addressed "Dear Ted", from Ned Gerrity tends to contradict John Mitchell's testimony because it outlines Mitchell's agreement to talk to McLaren following Mitchell's meeting with Geneen in August 1970.

It would carry some weight in that the memo was written contemporaneous with the meeting. Both Mitchell and Geneen have testified they discussed policy only, not this case, and that Mitchell talked to no one else. The memo further states that Ehrlichman assured Geneen that the President had "instructed" the Justice Department with respect to the bigness policy. (It is, of course, appropriate for the President to instruct the Justice Department on policy, but in the context of these hearings, that revelation would lay this case on the President's doorstep.) There is another internal Ryan to Merriam memo, which is not in the hands of the SEC; it follows the 1970 Agnew meeting and suggests that Kleindienst is the key man to pressure McLaren, implying that the Vice President would implement this action. We believe that all copies of this have been destroyed.

2. There is a Klein to Haldeman memo dated June 30, 1971 which of course precedes the date of the ITT settlement, setting forth the \$400,000 arrangement with ITT. Copies were addressed to Magruder, Mitchell and Timmons. This memo put the AG on constructive notice at least of the ITT commitment at that time and before the settlement, facts which he has denied under oath. We don't know whether we have recovered all the copies. If known, this would be considerably more damaging than Rieneke's statement. Magruder believes it is possible, the AG transmitted his copy to Magruder. Magruder doesn't have the copy he received; he only has a Xerox of the copy. In short, despite a search this memo could be lying around anywhere at 1701.

3. The Justice Department has thus far resisted a request for their files, although their files were opened to Robert Hammond, one of Turner's deputies and a hold-over who is now a practicing Democratic lawyer in Washington. Hammond had access to several memos that could be embarrassing. Whether he kept them or not is unknown, but it is probable that he recalls them. One is a memo of April 1969 from Kleindienst and McLaren to Ehrlichman responding to an Ehrlichman request with respect to the rationale for bringing the case against ITT in the first place. There is a subsequent April 1970 memo from Hullen to McLaren stating that Ehrlichman had discussed his meeting with Geneen with the AG, and suggesting to McLaren that Mitchell could give McLaren "more specified guidance". There is another memo of September 1970 from Ehrlichman to the AG referring to an "understanding" with Geneen and complaining of McLaren's actions. There is a May 5, 1971 memo from Ehrlichman to the AG alluding to discussions between the President and the AG as to the "agreed upon ends" in the resolution of the ITT case and asking the AG whether Ehrlichman should work directly with McLaren or through Mitchell. There is also a memo to the President in the same time period. We know we have control of all the copies of this, but we don't have control of the original Ehrlichman memo to the AG. This memo would once again contradict Mitchell's testimony and more importantly directly involve the President. We believe we have absolute security on this file within Justice, provided no copies were made within Justice and provided there are no leaks. We have no idea of the distribution that took place within Justice.
4. Merriam's testimony will of necessity involve direct contact with Jack Gleason. I can't believe that after Merriam's testimony. Gleason will not be called as a witness.

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Mr. COLSON. I didn't discuss this particular memo, Father Drinan, with the President, but in the——

Mr. DRINAN. You were giving reasons over a long period of time to the President why he should withdraw this particular nomination and you never mentioned the key factor in your memo, namely the memo of Ehrlichman to the Attorney General?

You never discussed that with the President?

Mr. COLSON. If you will go back through the way in which I have tried to lay the chronology of facts out, I reviewed the letters that were sent from ITT people to Petersen and Connally and Agnew and others early in it gave. I don't think these memos—I had seen one of these memos, but I don't think I had seen this memo until the day I wrote the memo of March 30. The thrust of my conversations with the President wasn't based upon the specific documents in the file and that is why I went back and decided I had better let him know in writing once and for all all the areas as to which I think there were vulnerabilities. If I had discussed it with him, I don't think I would have gone back and put that all in a memo.

Mr. DRINAN. Would you tell us——

Mr. DONOHUE. The time of the gentleman from Massachusetts has expired.

Mr. Moorhead?

Mr. MOORHEAD. Yes, Mr. Colson. I would like to know a little bit more about the background of the information that was disseminated in the *Ellsberg* case.

Can you tell me at the time, you were putting out information concerning Mr. Ellsberg and his attorney, what you felt that the threat was to the country of the Pentagon papers and of the things that Mr. Ellsberg was saying at that time to the people of the country?

Mr. COLSON. Well, those are two separate questions, Mr. Moorhead.

The first question, as to what I thought and what Dr. Kissinger thought was the threat. Dr. Ellsberg had prepared NSSM-1 while he was a consultant to Henry Kissinger—national security study memorandum. That contained all the options for preparing for all the contingency plans for trying to end the war in Vietnam. If you will read the November 8, 1973, issue of Rolling Stone, Dr. Ellsberg's interview, he says in the interview, the reason the White House was so afraid of me was that I knew their contingency plans for mining the harbors of Haiphong and bombing Hanoi.

The great concern was that Dr. Ellsberg would release other documents as to which he had had intimate access—intimate access including having prepared it, intimate access while he was at Rand while we knew or had an FBI report that there had been a compromise of security at Rand and Dr. Ellsberg was one of the suspects in 1970.

In short, he had had access to a great deal of information.

The Pentagon papers, I know it is a great public belief that they were harmless documents, but let me tell you there were 10 separate exhibits in there, one of which involved U-2 overflights of China that, had they been publicly disclosed, and they were part of the documents delivered to the New York Times, had they been publicly

disclosed at the time, would have been absolutely disastrous to the things that Dr. Kissinger was doing.

Let me assure you, I was concerned with the political aspects of Dr. Ellsberg, I was concerned with discrediting him, I was concerned with neutralizing him as an antiwar spokesman. I was concerned with the possibility of tying him in with our political opponents. But that was only one concern. The concern went much, much deeper and that was at the heart of the things that concerned the President at the time, I think really was the course of world affairs. It was not out of any anger or pique or any desire for political revenge—we felt that it was really a danger to the security of this country.

Mr. MOORHEAD. You felt that it might be a real threat to peace?

Mr. COLSON. Yes, sir, very much so.

Mr. MOORHEAD. Concerning the other half of the questions, concerning the information and the statements that were being made by Dr. Ellsberg throughout the country—

Mr. COLSON. Well, it was a curious thing. Dr. Kissinger knew Dr. Ellsberg well and had a great deal of information about his conduct in Vietnam, some of the things he had been involved in, and he had been on the other side of the issue, you know. He had been far to the hawkish side of the rest of us. The thing that he was doing was going around the country saying, "I was in Vietnam all these years, I lived with all this, and I know," and then went into a long litany against the administration's policies.

I was concerned with rebutting the effectiveness of his position as a public spokesman.

Mr. MOORHEAD. Was that the principal reason, then, for disseminating what you say was truth concerning Dr. Ellsberg?

Mr. COLSON. I think the principal reason, Mr. Moorhead, was that in part, certainly on my part it was. But it was also, if the whole thing were exposed, it would be a deterrent against other people doing the same kind of things that Dr. Ellsberg did.

Mr. MOORHEAD. Do you know who gave the Pentagon papers to the Soviet Embassy?

Mr. COLSON. I do not know who gave them, but I was advised by General Haig at the time that it happened and I was also advised of the means by which we had discovered that fact, which—

Mr. EDWARDS. Mr. Chairman, a point of information.

There has never been, to my knowledge, any testimony received by this committee, or does Mr. Colson know of his own knowledge that the Pentagon papers were delivered to the Soviet Union?

Mr. COLSON. I do know of my own knowledge that they were. At least I was told that by General Haig, and told of the means by which they were stolen.

Mr. EDWARDS. We have received no evidence and I understand from my staff, I would like to speak on that.

Mr. HOGAN. Mr. Chairman, that is not true. It is in our transcripts.

Mr. EDWARDS. No, it is not.

Mr. HOGAN. It most certainly is. It has already come before the committee.

Mr. DENNIS. Yes, it is.

Mr. Chairman, this is perfectly good in these proceedings.

Mr. DONOHUE. Mr. Moorhead, would you proceed with your questioning?

Mr. CONYERS. Mr. Chairman, I register an objection at this point based on the argument advanced by Mr. Edwards. I hope you will sustain it.

Mr. DONOHUE. The record will speak for itself.

Mr. CONYERS. But if this is inaccurate, Mr. Chairman, we will be permitting testimony where the witness has clearly indicated that he doesn't know of his knowledge. He said it came from some other source.

Mr. DENNIS. Mr. Chairman, it is a little late to start worrying about hearsay in these proceedings, and it is in our tabs—at least the suggestion is discussed. It is just as competent as everything else we have been hearing.

Mr. CONYERS. I understand that it is in the record as an allegation coming from General Haig.

Mr. MOORHEAD. That is right.

Mr. DONOHUE. That being so, I think that witnesses may comment on it as such.

It isn't established as a fact, merely as an allegation.

Mr. MOORHEAD. Mr. Colson, had you finished your comments before we were interrupted?

Mr. COLSON. I think so.

Mr. DANIELSON. Mr. Chairman—

Mr. MOORHEAD. I am concerned about the information that you pled guilty to because of the implications that it has otherwise.

At the time that you disseminated information that you believed to be true about Dr. Ellsberg, did you believe that you were corruptly endeavoring to influence and obstruct the administration of justice?

Mr. COLSON. I should have known that, Mr. Moorhead. My motive and my purpose was to neutralize Dr. Ellsberg as an antiwar spokesman and it really didn't matter to me that he was under indictment. It now matters to me and I hope it matters to other people who find themselves in a position of trying to prosecute a man and try him in the press at the same time. I don't think that should happen in this country.

Mr. DONOHUE. The time of the gentleman from California has expired.

Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Mr. Colson, it is your testimony that you pled guilty not because you were guilty but you wanted the opportunity to tell the truth?

Mr. COLSON. Well, I wouldn't plead guilty if I didn't feel I was guilty, Mr. Rangel.

Mr. RANGEL. Then you pled guilty because you were guilty of obstruction of justice?

Mr. COLSON. That is what I pled guilty to, sir.

Mr. RANGEL. Now, since the Watergate break-in, you and the President had occasion to have a number of conversations, some of them on the telephone; is that correct?

Mr. COLSON. Yes, sir.

Mr. RANGEL. It is natural to assume that many of these conversations concerned themselves with Watergate and related matters; is that so?

Mr. COLSON. I think I have tried, Mr. Rangel, to the best of my ability to recount all of them, either to the staffs in the 5 days we had together or today.

Mr. RANGEL. Well, it was on your mind and the President's mind and you were very close friends and working relationship. What would you say if I told you that we have asked the President for 25 of those conversations and he said it is not related to Watergate?

Mr. COLSON. Of our conversations?

Mr. RANGEL. Yes, this committee.

Mr. COLSON. Oh, believe me, Mr. Rangel, we had many conversations when Watergate never crept into either of our minds.

Mr. RANGEL. Well, we have requested, we have subpoenaed, and we don't have any information in connection with when or if the President will give us the tapes to substantiate the conversations which you have already testified under oath.

Mr. COLSON. I would—you know, I am well aware that when I thought I was talking to the President alone, that little Sony tape recorder was with us. I have tried—

Mr. RANGEL. But you would agree it would help us if we had the tape instead of your recollections of the Watergate conversations you had with our President?

Mr. COLSON. Probably would help me, too.

Mr. RANGEL. Very good.

Mr. COLSON. I would be more helpful in remembering the conversations.

Mr. RANGEL. I am concerned, Mr. Colson, about the flow of information from Mr. Haldeman and Mr. Ehrlichman to the President. Is it your testimony that when you had important issues to bring to the President, many times as a courtesy, you would give it to Haldeman and in those instances, you were assured that the President did receive that information?

Mr. COLSON. I couldn't always be sure. It wasn't so much courtesy, Mr. Rangel—well, it was in part. But it was also if, like if the ITT case, I had been dealing with the President—

Mr. RANGEL. Honestly, with 5 minutes, I would not want an example. But generally speaking, could Haldeman be trusted to turn over important information to the President?

Mr. COLSON. I don't know that I can give you a characterization. I would just tell you that I always made it a point to get something to the President if I wanted to if I had to do it myself. If Bob Haldeman—

Mr. RANGEL. But generally speaking, he was trustworthy enough to tell the President important information that he thought he should want to have on his desk, is that so?

Mr. COLSON. I assumed he was discharging his responsibility that way, yes.

Mr. RANGEL. Now, you said many times you thought there was certain information that the President did not want to know. Would you include in that type of information knowledge that some of his trusted assistants were involved in obstruction of justice?

Mr. COLSON. I can't give you your answer within your 5 minute time limit.

I guess the President is as human as any one of us. I would hate to think someone I had leaned on and trusted and relied on and was loyal to me and I felt loyal to was involved in something. I would hope to the dickens he hadn't been. And I guess I probably wouldn't kick him quite as hard as I would someone else.

Mr. RANGEL. But because he is your friend, it is difficult to do, but some of the information, even though it was true, if it involved his close assistants, it is your belief that he may not have wanted to know that they were involved in criminal activity?

Mr. COLSON. I don't know if that is a rhetorical question or a question.

Mr. RANGEL. I am asking. Would that be the type of information which you believe that President Nixon would not want to know?

Mr. COLSON. I just—I think he would feel very pained if he thought any of his close friends were in—

Mr. RANGEL. Let me put it another way. Each time you have tried to give your trusted friend some information of criminal activity, you walked away feeling rebuffed, did you not?

Mr. COLSON. That is because I didn't have much in the way of hard evidence. I think I can—

Mr. RANGEL. But each time, you felt that was no sense going back because he might think that you are trying to bite someone else in the back?

Mr. COLSON. Well, that is a separate consideration, yes, sir.

Mr. RANGEL. Now, what I have difficulty in understanding, Mr. Colson, is that if in fact, if Mr. Haldeman and Mr. Erlichman had kept information away from our President, how our President can publicly laud them for their dedicated public service. Could you explain that inconsistency?

Mr. COLSON. I am afraid I am not capable of penetrating anybody else's mind quite that well.

Mr. RANGEL. Well, everybody that has been indicted or convicted, the President has found some way to say they were dedicated public servants. As a matter of fact, you speak very highly of Mr. Hunt as being a dedicated public servant. Is it the President's feeling that those people that were involved in obstruction of justice are dedicated public servants?

Mr. COLSON. Is it the President's feeling, did you say?

Mr. RANGEL. Well, you pled guilty to it and he called you and gave you sympathy.

Mr. COLSON. Well, I don't think that is particularly unusual.

Mr. RANGEL. Well, he did the same thing publicly for Mr. Haldeman and Mr. Ehrlichman.

Mr. COLSON. Well, if you had a friend of yours who got in trouble, I don't know, I hope you wouldn't turn your back on him just because he got in trouble.

Mr. DONOHUE. The time of the gentleman from New York has expired.

Mr. RANGEL. Thank you.

Mr. DONOHUE. I observe Mr. Butler has returned?

Would you care to use your time?

Mr. BUTLER. Thank you, Mr. Chairman.

I don't believe I have any questions, but I appreciate your courtesy.

Mr. DONOHUE. The Chair will now recognize Mr. Maraziti.

Mr. MARAZITI. Thank you, Mr. Chairman.

Mr. Colson, I have been impressed by your testimony and I, as a member, appreciate your appearance before this committee.

Mr. COLSON. Thank you, sir.

Mr. MARAZITI. I would just like to briefly continue the line of examination initiated by Railsback, and Moorhead, and on this question of your plea of guilty to the information, as I understand it without going into the details of the testimony already covered, it was your plan or you had plans or your intention to put out information on Mr. Ellsberg to show the country the type of person he was so that he would not become a hero and so we wouldn't have more leaks. And you wanted to show his background so that we would have the true picture.

Now, I think the terminology that you used initially in your presentation was damaging information. Now, this information was damaging, but, I think you indicated, nevertheless true. Is that correct?

Mr. COLSON. To my knowledge, Mr. Maraziti, that was true. I had no reason to doubt the authenticity of the FBI information that I had seen or the firsthand reports of Dr. Kissinger, which I had been privy to. I had no reason to think it was not true.

Mr. MARAZITI. Yes.

Now, were you able to put forth, or how much information were you able to put forth? Were you able to go into it?

Mr. COLSON. No, I had some discussions with members of the staff of a congressional committee that was interested in exploring it. Frankly, the thing sort of petered out because the real reason for getting it started in the first place was the deterrent effect, to try to stop other leaks from happening. And we got through the tough period that the President was worried about. That was the trip to China, the SALT negotiations had moved along very well by August. We had been rebuffed or Dr. Kissinger had been rebuffed in Paris and the very critical time in Paris had seemed to pass—disappointingly so. So it lost, kind of, it lost some of its steam or some of its impetus and we just never got it off the ground, frankly, and other things became more important to us.

Mr. MARAZITI. As I understand it, your plea was to information, not that you gave out this information or factual material, but to a scheme or a plan to do so and thereby defame and destroy the public image and credibility of Mr. Ellsberg. That was the information you pled guilty to?

Mr. COLSON. That is right, the overt acts talk about information which was in fact released, which was the Boudin material. But it was a scheme to do so.

Mr. MARAZITI. Let's go back one moment more. You say the information was damaging, was to be damaging but nevertheless true.

Now, defamation implies untruth. What I am trying to say, really in your defense, is that I do not see and I cannot understand how you could, or should have in a way been put in a position of pleading guilty to something that does not appear to be violation of laws.

Mr. COLSON. Well, you are sounding an awful lot like Mr. Shapiro during the week that I argued with him about this, because he didn't want me to plead, either, and I wanted to. I felt it was a principle that I could help establish, that it would be a constructive thing to do, that it would be more useful in terms of whatever I could do for the country than sitting around for 2 years as a defendant, and I just wanted to be free to tell the truth, so I did it.

[Material unrelated to testimony of witness deleted.]

Mr. MARAZITI. Yes, I understand your reason. You stated your reason previously, too.

But could you not appear, and you may have a good point here, could you not appear before this committee and a multitude of other committees that we have had and may have and speak your piece likewise?

Mr. COLSON. No, sir. I wanted very badly to appear before the Ervin committee. I asked on five separate occasions to be permitted to testify and the week I was scheduled to, I was advised that I was about to be indicted and it just was impossible. I would have been put in an impossible position.

Mr. MARAZITI. Thank you, Mr. Colson.

I understand your motives and I appreciate them, but my position is still the same, that I see no offense.

The CHAIRMAN. The time of the gentleman from New Jersey has expired.

Ms. Jordan.

Ms. JORDAN. Mr. Colson, you testified on yesterday after several campaign strategy meetings which were held at 8:15 in the morning at the White House.

Would you tell me how much overlap there would be between the persons who would attend those campaign strategy meetings at the White House and personnel of the Committee To Re-Elect the President?

Mr. COLSON. Yes, Ms. Jordan. I may have confused you there. There was a regular, as long as I was in the White House, the whole time, there was a regular 8:15 senior staff meeting which was just White House personnel. Then there was a 10 o'clock meeting on Mondays and Thursdays that was a campaign strategy session of the people the President principally relied upon for campaign and political advice. That was attended by Mr. Mitchell when he was the campaign manager and then later by Mr. MacGregor when he was the campaign manager. That would be the only overlap. There was one outsider present, Bruce Marlow—

Ms. JORDAN. Only Mr. Mitchell and Mr. MacGregor, then, would attend both meetings?

Mr. COLSON. Yes, ma'am.

Ms. JORDAN. Would you agree or disagree with the statement that the Committee To Re-Elect the President was an extension, really an extension of the White House?

Mr. COLSON. I have heard that before. It wasn't an extension of my part of the White House because I had a dickens of a time trying to get them to do some of the things that we thought ought to be done. It was set up with a lot of ex-White House personnel. Mr. Magruder had been close to Mr. Haldeman. So I can see how people would make that statement. From my own personal experience, it didn't work that way.

Ms. JORDAN. You testified yesterday, Mr. Colson, that in late June of 1973, you were discussing the Watergate matter with the President among other things, and you made the statement, "Whoever ordered the Watergate break-in ill served you."

Mr. Colson, do you feel that you at any time ill served the President?

Mr. COLSON. Yes, ma'am.

Ms. JORDAN. Mr. Colson, would you place in the category of the times you ill served the President the occasion of receiving the memo from your attorney, Mr. Shapiro, the memo dated March 16, which you knew of as of March 19, the President calling you on the telephone that evening, and you failing still to mention some new information which had been revealed in that March 16 memo?

Mr. COLSON. Well, the reason that I don't believe that I ever mentioned that conversation to the President was that Mr. Shapiro—I mean I don't know whether I ever in any conversation alluded to the fact that Shapiro had had a meeting with Hunt. I don't think I did. But the reason that I didn't, and I didn't communicate it to anyone else at the White House, was that Mr. Shapiro, who is a very eminent attorney, told me that to do so would make me a party to a conspiracy because I would be transmitting information that was in furtherance of the conspiracy.

Ms. JORDAN. Mr. Colson, I didn't mean to have you repeat your testimony of yesterday. I think you also testified that your attorney, Mr. Shapiro, recalls that he told you to give that information to the President.

Mr. COLSON. In the first part of our discussion, he said, well, I think you could tell the President. Then I said, no, I don't think I should do that, because I am not sure he will necessarily—he knows whether to believe me or anybody else. That is when we came up with the idea of a special counsel.

Ms. JORDAN. Mr. Colson, in responding to questions about some of the activities you engaged in with regard to Daniel Ellsberg and his attorney, you stated that in spite of what you may have said or what you may have done, you told the truth about Mr. Ellsberg and about his attorney.

Now, Mr. Colson, I would like for you to look at page 62 of your draft and in the middle paragraph, near the bottom, you make the statement—

I have, however, discovered over the past many months what it is like to be the victim of some of the tactics I, myself, earlier condoned. The leaks, the smears, the planted stories.¹

Were the leaks, the smears, the planted stories all true?

Mr. COLSON. In my case?

Ms. JORDAN. Yes.

Mr. COLSON. A great many were not true, Ms. Jordan. Some were true.

Ms. JORDAN. Mr. Colson, your answer to that question is that some of the leaks and smears and planted stories were not true about Mr. Ellsberg?

Mr. COLSON. No; I said—I am sorry, I misunderstood you.

¹ See p. 438.

I have, however, discovered over the past many months what it is like to be the victim—I thought I was talking about leaks, smears and planted stories about me.

Ms. JORDAN. No; about Mr. Ellsberg and his attorney.

Mr. COLSON. Well, I can't amplify the answer any better than I gave it before. I never had any reason to doubt the authenticity of the material that came to my attention about Dr. Ellsberg. I can only say that I thought it was true.

Ms. JORDAN. What is a smear, Mr. Colson? Can you define smear for me?

Mr. COLSON. It is so common that you almost could take judicial notice of it, I think.

Ms. JORDAN. I am an uncommon person, Mr. Colson.

Mr. COLSON. I guess it is when you put out information that really is maliciously damaging to someone, even if it is true, sometimes it can be still a smear. If it is put out to hurt someone or to harm him or, worst of all, to harm his rights as an individual citizen, then that is a smear to me.

Mr. DONOHUE. The time of the gentlewoman from Texas has expired.

Mr. Froehlich?

Mr. FROELICH. Thank you, Mr. Chairman.

Mr. Colson, on March 23, 1971, the meeting that was held between the President, Connally, Shultz, Hardin, Ehrlichman, to increase the parity level of milk, to—were you every contacted, were you ever part of a meeting that tried to make a deal with the milk dealers to lay off in 1972 if they got the price increase in 1971?

Mr. COLSON. That sticks in my mind somewhere, Mr. Froehlich, that I was told, either on the 23d, 24th, or 25th, whenever I knew, I guess, officially, that the level was going to be increased that it was part of a package whereby the milk producers would agree not to press the next year and to try to get the Congress to roll this again. It was to be a 2-year fixed level and it wasn't to be changed again.

I am aware that that was part of the thought processes what went on. I don't know whether I was asked to convey that to the milk people or not. I may well have been.

Mr. FROELICH. Did you convey it? Do you recall at all?

Mr. COLSON. I don't, except it was kind of an accepted fact of life.

Mr. FROELICH. The President indicates that, in that conversation, that Phil Kalmbach apparently had that responsibility. Then Mr. Ehrlichman talks about we'll have to get to Bob Colson and Bob Dole and get them in this, too.

Mr. COLSON. Well, you have just read something that makes it clearer, then, that must have been one of the things that Mr. Ehrlichman talked to me about it, be sure if they get it, they are not going to come back next year.

Mr. FROELICH. Do you know of anyone who used this decision as a reason to raise funds after the decision was made for the Re-Elect the President Committee?

Mr. COLSON. I don't know of—I have read about all the meetings that took place that night in Kentucky and meetings with Kalmbach the next day, which I wasn't part of. I have read about all that. I don't think I knew it at the time.

I guess I would have to say that whenever I really said to Murray Chotiner, now you guys better keep your promise and come across about this dinner, because it looked bad after the decisions, subtly, I suppose, I was doing that to an extent. I didn't know about the other meetings where the \$2 million commitment was to be affirmed—if such meetings took place. I don't know that they did.

Mr. FROELICH. When Ms. Jordan was questioning you, you referred to the extension of the White House. Where were the decisions made in the Re-Elect the President Committee? Was that made by Mitchell? Or who made the decisions? Did MacGregor make them? Did the President have any great influence that you know of over there to call the shots?

Mr. COLSON. Well, the President, up until the time of Watergate, really didn't have any time to worry about what was going on in the campaign, and he didn't. After Watergate, he got mad as the dickens at the way things had gotten out of control and he made a lot of decisions, like cut the staff, cut the salaries, and put MacGregor in. Once McGregor got over there, he started making decisions and the place started to run efficiently.

Mr. FROELICH. By "he," you mean the President or MacGregor?

Mr. COLSON. MacGregor. Once Clark took over the committee, all of us kind of relaxed. I will be frank and say I don't think it was running at all prior to that. I don't think anybody was making decisions. It was a bunch of kids running around really not doing a damn thing.

Mr. FROELICH. I will change the subject once more. Did Hunt actually have an office in the White House, or was he in a closet?

Mr. COLSON. I have never been in it, Mr. Froehlich, but as I understand it, it was off an office and it was in a small room up on the third floor of the Executive Office Building. I don't know what size it was. I understand it was a small office.

Mr. FROELICH. Is that where the safe was opened, in that room?

Mr. COLSON. I don't know, sir.

Mr. FROELICH. Thank you, Mr. Chairman. I have no further questions.

Mr. DONOHUE. The Chair will declare a recess in order to enable the members to go over and answer the rollcall that is now going on.

[Recess.]

The CHAIRMAN. I recognize Mr. Thornton.

Mr. THORNTON. Thank you, Mr. Chairman.

Mr. Colson, I would like to discuss with you very briefly the areas in which the President expressed directly or indirectly to you a concern for certain happenings or events, one of which was a concern about the date of the final payment to Mr. Bittman. Now, did the President call you with regard to this question, or would you state again how you got that request? I believe you got the request on two different occasions, did you not?

Mr. COLSON. Yes, sir. I received the request initially from Mr. Buzhardt, who called me—I don't know when it was, but sometime in October or November. That was when Mr. Shapiro checked with Mr. Bittman and then I checked with Mr. Bittman.

The only time I have ever discussed it directly with the President, Mr. Thornton, is when he called me 2 days after the Watergate indict-

ments and in the course of just expressing his personal feelings about the plight I was in, he asked me was it not true that I had found out from Bittman that the payments had been made prior to the 20th—prior to the 21st. If you remember, that had been Hunt's testimony at the Senate select committee. I think that—I don't know the extent of the President's knowledge at all. I know he thought, based on whatever people had been telling him, that the payments—

Mr. THORNTON. I am really interested in the areas in which he made a direct inquiry of you. I believe another such area was with regard to clemency and again there were two calls, one in June and one in December.

Mr. COLSON. We had two discussions; yes.

Mr. THORNTON. The December call the President placed with you, did he not?

Mr. COLSON. He called me; yes.

Mr. THORNTON. He was concerned, I believe you testified, and when you stated your inquiry had been based on compassionate concern for Mr. Hunt, or words to that effect, he said something to the effect of, that God, we didn't discuss clemency or words to that effect, I believe your testimony was.

Mr. COLSON. I think you are referring to the ITT call. That is the only time I ever recall him saying "That God—"

Mr. THORNTON. I do recall that. That was the next question. It stuck in my mind that you had the same phrase in your testimony with regard to clemency as I recall you having had with regard to the discussion of the ITT case.

Mr. COLSON. I may have had, sir, in the sense that—I mean that certainly was the thrust of his reaction. I don't think he ever remembers the specifics of the conversation and I have, in the occasions when I have gone back and tried to explain it a couple of times to him, he has always said, well, you know, maybe he said, that God or yes, good, or—

Mr. THORNTON. Now, calling your attention to another conversation on February 14, when you advised the President that in your view, John Mitchell had to accept responsibility on the Watergate matter, I believe you testified the President reacted rather strongly to that suggestion. Did he not?

Mr. COLSON. Yes, sir. He was angry that I was suggesting, as he described it that we take an innocent man and make him a scapegoat to get rid of the Watergate.

Mr. THORNTON. Causing you to reflect whether your own motives in making the suggestion might have been misunderstood?

Mr. COLSON. Yes, sir.

Mr. THORNTON. Causing you later on, I believe, to reflect whether you should present other information to the President at the time of the special counsel for a concern that your motives in making accusations against members of his staff might be misunderstood. Is that correct?

Mr. COLSON. Yes, sir; that is correct.

Mr. THORNTON. Mr. Colson, I believe you testified also that you had a role as a filter for information to the President; you yourself personally had that role. And obviously, you would in that role filter

out trivial or unimportant information which need not reach the President's ears. My question is what standards did you employ to filter out important information from the President?

Mr. COLSON. Well, one of the rules the President had was don't bring me a problem without a solution, and if a member of my staff would come in with a problem and he didn't have an answer to it, I would not take that to the President until I had. I can remember some times during the postal reform negotiations when we were at loggerheads and I wouldn't go in and say to the President, you know, here's how bad it is right now, unless I had figured out some way to say to him, here's how I think we are going to work it out.

A lot of trivia I would try to exclude. I mean if it didn't—actually, the President's mode of operation was to, as Mr. Jenner was talking yesterday with me, was to get, sort of look at what were the main items—

Mr. THORNTON. Well, let's pursue that just a moment, if we may, because I am really concerned about why you would exclude certain information even though you might not have an answer for it; a quick illustration being the letter from Reeves and Harrison concerning the dairy, AMPI contribution, which I believe when you received this letter, or saw it, it caused a reaction on your part?

Mr. COLSON. Yup.

Mr. THORNTON. You did not communicate that to the President?

Mr. COLSON. No; and I didn't think it was the kind of thing he should be shown.

Mr. THORNTON. Why didn't you think he should be shown this?

Mr. COLSON. I didn't think he should be shown a letter, especially from someone he had known and served with in the past years—I think Hillings was in Congress when the President was Vice President—a letter that to me was so clearly improper. I just didn't show it to him.

Mr. THORNTON. Don't you think the President should know if improper letters were written? He might want to take some action to insure that such letters would not be repeated.

Mr. COLSON. He couldn't really control the letters we received. If the letter had been written by someone on the White House staff and I thought somebody should be discharged for it, I still wouldn't take it to the President.

Mr. THORNTON. He might have said, we are not going to accept contributions from anybody who would write such a letter, might he not?

Mr. COLSON. Yup, that is a very good point.

One of the difficulties—maybe this will help the whole committee. I can remember times when the President was preoccupied with a particular issue, generally foreign policy. If you came to him with a major domestic problem—I mean a major one—and it was all staffed out, he would look at it and say, what's this about? You would tell him and he would say, OK, I don't care, you settle that. You know, he liked to keep his mind focused on the thing that was really important to him at the moment.

One of the problems was you never could bring a whole lot of different things if they were out of the mainstream of what he was doing at that given time.

Mr. THORNTON. Would you say that in July and August, the President was very interested in the development of the Watergate problem?

Mr. COLSON. In 1972?

Mr. THORNTON. Yes.

Mr. COLSON. Well, to the extent that it was a political issue at the times, yes. I mean he said one of the times he did say thank God was, thank God no one at the White House was involved.

I guess Mrs. Jordan asked me did I serve him well; no.

Mr. THORNTON. Well, specifically, I am wondering why, having the conversation with Mr. Dean in late August of that year and being told that your memorandum impeached Magruder, why this information did not seem important enough to be communicated to the President?

Mr. COLSON. Well, one of the things that I regret about serving in the White House in the time I did was when something like that happened, that I didn't walk right in and pound on the table. The fact is I didn't and I consider that my own inadequacy that I failed to. If I had, maybe we wouldn't all be sitting here.

The CHAIRMAN. The time of the gentleman has expired.

Mr. Latta.

Mr. LATTA. Thank you, Mr. Chairman.

In view of the fact that somebody has alluded to the Committee to Re-Elect the President as being an extension of the White House, I will ask you, Mr. Colson, isn't it a fact that the Committee to Re-Elect the President was a nationwide organization?

Mr. COLSON. Yes, sir, it was, in terms of organization and people and volunteers.

Mr. LATTA. And isn't it also a fact that it was composed of Republicans, Democrats, and Independents alike?

Mr. COLSON. At the first—for a large period of time, it was. Eventually, Democrats for Nixon became a separate organization. But it was across the board and it was not a Republican organization, that is correct.

Mr. LATTA. I would like to testify to that fact in my district.

Mr. COLSON. I am sure you would. That was one of the problems.

Mr. LATTA. Now, Mr. Colson, this material that you released on Daniel Ellsberg, was that submitted to this committee?

Mr. COLSON. The August 24 memorandum that included the paper on Boudin was and was submitted to the prosecutors. Actually, I don't have any other documents that reflect anything that was in fact disseminated. The basic thrust of that charge was not so much what was done, but the scheme and the plan that was entered into in order to further it had we been successful in getting materials that could have been distributed.

Mr. LATTA. So we have only half the information. That is on Boudin, but not on Ellsberg. Would the Ellsberg material be available to this committee that you received from the FBI?

Mr. COLSON. I don't know whether—I think the prosecutors have it all. I don't know whether the committee counsel has obtained that

Mr. LATTA. In book VII, part 1,¹ we have information in the form of

¹See HJC, "Statement of Information, book VII, pt. 2, item 31.4, p. 599.

Mr. LATTA. In book 7, part 1, we have information in the form of an affidavit of John Ehrlichman that was filed in the U.S. District Court, Case No. 74-116. I am just going to read you part of this affidavit and see whether or not this information on this individual was available to you and whether it caused you and the White House any concern.

On page 2:

We were told he was a fanatic, known to be a drug abuser and had knowledge of very critical defense secrets of current validity such as nuclear deterrent targeting.

Mr. COLSON. Yes, sir.

Mr. LATTA. Now, did he have this information, to your knowledge?

Mr. COLSON. I don't know whether he physically had it, but the FBI reports indicated that he had had considerable access to it while he was at Rand, yes, sir.

Mr. LATTA. And did you have any information, or did the White House, to your knowledge, have any information as to what he planned to do with this information?

Mr. COLSON. No, it was just a fear that he had, since he had it all and had released the Pentagon Papers, which as I indicated earlier, did contain a lot of sensitive information, there was no reason to think he wouldn't continue the pattern.

Mr. LATTA. Was any effort ever made to reclaim this information from this individual?

Mr. COLSON. I think so. There was a footlocker full of information at a storage company in California that the FBI got to too late because he had already removed it. I know an effort was made to try to find out what other documents he had.

As a matter of fact, NSSM 1, which I alluded to earlier, was mysteriously delivered to a U.S. Senator at the same period of time we are talking about. The Senator agreed not to publish it, but would not return the documents. We never knew whether it came from Ellsberg, although Ellsberg had been a co-author of NSSM 1.

Mr. LATTA. And this was on nuclear targeting information as pertains to this country?

Mr. COLSON. NSSM 1, no, but the information at Rand was, yes, sir.

Mr. LATTA. I didn't get the last statement.

Mr. COLSON. The information that he had access to at Rand did include strategic targeting information, yes, sir.

Mr. LATTA. And that is why he obtained the information, from Rand?

Mr. COLSON. That was the information that was available to me at the time, yes, sir.

Mr. LATTA. And to your knowledge, today he might still have this information?

Mr. COLSON. I would have no way of knowing whether he had it here. The point was that he had access to it. It wasn't known whether he had reproduced it or what he had physically in his possession. But it was then that he had had access to it.

Mr. LATTA. And it is certainly your testimony today that this did cause concern to the President?

Mr. COLSON. Great alarm and great alarm to Henry Kissinger, yes, sir.

The CHAIRMAN. The time of the gentleman has expired.

Ms. Holtzman.

Mr. HUTCHINSON. I reserved my time and I will yield my time to Mr. Latta.

Mr. LATTI. May I just ask one more question?

Thank you, Mr. Chairman, Mr. Hutchinson.

Yesterday, you said, and I have a quote here, that you thought Dean was lying. And I don't know what you were talking about—lying about what?

Mr. COLSON. Well, many things. The enemy list——

Mr. LATTI. Would you explain that?

Mr. COLSON. Pardon?

Mr. LATTI. You said many things. Would you tell us what you said Dean was lying about?

Mr. COLSON. I have come to dislike the term "lying." And I used it very glibly yesterday. I guess many times people make statements that other people don't think are completely true, but the allegations regarding my conduct with respect to the meetings with Mr. Bittman I knew to be in error. Certain statements he made about things that he allegedly said to the President I thought were wrong. Question about the enemies list, which he brought up during the Ervin hearings I knew were untrue as far as I was concerned.

I went through and made a whole list of items which I knew Mr. Dean was not telling the truth, at least as I saw it.

Mr. LATTI. May I stop you at that point? Is that list available?

Mr. COLSON. I can go back and check and see if I still have it. There were many areas while he was testifying at the Ervin committee—actually, Mr. Latta, I did three or four television interviews—five or six, I guess, during that period of time in which I took sharp issue with Mr. Dean on some of the things he said.

Mr. LATTI. Could you make that information available?

Mr. COLSON. I would be happy to; yes, sir.

Mr. LATTI. That is all, Mr. Chairman.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

Mr. Colson, during the summer and fall and perhaps winter, early winter, starting in 1972, and through June and the early part of 1973, did you ever get the impression or notice that Mr. Haldeman or Mr. Ehrlichman or both of them were keeping information about Watergate from you?

Mr. COLSON. From me?

Ms. HOLTZMAN. Yes.

Mr. COLSON. Yes.

Ms. HOLTZMAN. Can you elaborate on your answer?

Mr. COLSON. Well, if you go through the chronology of all the events that took place, my relationship with Bob Haldeman and John Ehrlichman—I wasn't part of—I hadn't come from the same part of the country they had come from, I hadn't worked very closely with them. But in 1971, the latter part of 1971——

Ms. HOLTZMAN. Mr. Colson, may I just interrupt you and ask you to try to be as brief as possible.

Can you give us the instances that you felt Mr. Haldeman and Mr. Ehrlichman were keeping information from you?

Mr. COLSON. That would take more than 5 minutes.

Ms. HOLTZMAN. Give me a couple.

Mr. COLSON. Well, the secret fund involving the CIA right after Watergate. The meetings that took place, several of them, at La Costa, which I didn't even know occurred. The meetings at Camp David—someone alluded earlier to Dean's taking my transcript of conversations with Hunt and playing it to others. They knew all that and I didn't.

There were many occasions when I would walk into the room when Bob and John were talking and there would be a sudden silence. That was not customary. We worked together kind of freely as a staff and you could walk in and out.

The whole thing about Kalmbach raising funds. I never knew Tony Ulasewicz even existed and he was the guy apparently paying out the money. There was an awful lot that I didn't know.

As you will read in my draft Ervin statement, I talked about a protective shield I had built around myself because I didn't want to be the instrument that brought it into the White House, but there was another shield that kept things away from me.

Ms. HOLTZMAN. Thank you, Mr. Colson.

Second, have you ever stated that it was your belief that the President knew in advance of the Fielding break-in?

Mr. COLSON. Yes, I have.

Ms. HOLTZMAN. What was that instance?

Mr. COLSON. I just assumed, to be perfectly honest, when I learned about it, that John Ehrlichman wouldn't take something like that upon his own shoulders. And I assumed that—I knew, of course, that the FBI and the CIA were engaged in this kind of activity all the time—they may still be today.

Ms. HOLTZMAN. But your assumption about Mr. Ehrlichman is based on your knowledge of White House practice during the long period of time that you were there; is that correct?

Mr. COLSON. Well, not so much knowledge of White House practice. It is just knowledge of commonsense. I knew damn well I wouldn't take the responsibility for something like that without getting the President's approval. I didn't think anybody else would. But I guess, in fact, that was the case.

I just always assume it. It never—

Ms. HOLTZMAN. When did you first learn of the Ellsberg break-in and who told you?

Mr. COLSON. I think the first conversation where I really knew exactly what had happened or thought I did was with Mr. Ehrlichman after the fact. I have placed the date as September 9th, but I could not say.

Ms. HOLTZMAN. 1971?

Mr. COLSON. 1972. I could not say independently, Ms. Holtzman, that that was my view—I mean that that was the date.

Ms. HOLTZMAN. Now, Mr. Hunt has stated that on June 19th, he came to his EOB office and then looked through his safe and went to your secretary thereafter on the 19th and told your secretary that his

safe—his, Hunt's safe—was loaded. When did your secretary tell you that?

Mr. COLSON. She didn't. She further says in her grand jury testimony that Mr. Hunt never came into her office on that day.

Ms. HOLTZMAN. I see.

Mr. COLSON. I have become puzzled about a concatenation of events and I would like to go through them with you for a moment.

Mr. COLSON. What kind of a thing of events?

Ms. HOLTZMAN. A concatenation.

In September of 1971, it is your testimony that Mr. Hunt came to your office and said he wanted to talk to you about his trip to California—some pictures that he had.

Mr. COLSON. I don't think he said trip to California. He said "what we have been up to this weekend."

Ms. HOLTZMAN. OK. And you said, in essence, I don't have time to talk to you now.

Mr. COLSON. That is correct.

Ms. HOLTZMAN. Did you ever discuss the events of that weekend with Mr. Hunt, let's say, up to March 30, 1973?

Mr. COLSON. After March 30, 1973?

Ms. HOLTZMAN. Up to March 30, 1973.

Mr. COLSON. Yes, I think Hunt raised the question—I think Hunt referred to it to me later and I think it was contained in a memorandum later that there had been a covert attempt to obtain funds.

Ms. HOLTZMAN. Hunt told you about that when?

Mr. COLSON. Later in the fall of 1971. But I knew about it, which I am sure I learned from Mr. Ehrlichman.

Ms. HOLTZMAN. Then in January or February of 1972, you testified that Mr. Hunt and Mr. Liddy came to your office.

Mr. COLSON. Right.

Ms. HOLTZMAN. And they said that in essence—and I don't mean to mischaracterize your testimony—but I gather in essence that they had a plan for political intelligence and they couldn't get a green light from anybody at CREP, and you said in essence, don't tell me what the plan is but I will call Magruder, and you did, and you said—not in essence—give them the green light on the plan, but listen to them, make some decision.

Mr. COLSON. No. Make a decision. I didn't say don't tell me what the plan is. I said, this isn't my department; you have got to get Magruder and Mitchell. Mitchell, I called Magruder and said hear them out.

Ms. HOLTZMAN. Did you ask them what the plan was?

Mr. COLSON. No; that meeting took a grand sum total of 2 minutes, to my recollection. I was in a hurry to get home that night; it was 8 o'clock; I was busy.

The CHAIRMAN. The time of the gentlelady has expired, and we will recess until the committee has had an opportunity to vote on this final passage and then return immediately following the recess.

[Short recess.]

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

Mr. COLSON, we ascertained the fact that you did not discover what this political intelligence plan was that Hunt and Liddy had men-

tioned to you in your office in connection with that phone call. Then I understood your testimony in August of 1972, your secretary told you about a telephone call from Howard Hunt and you said to her, in words of substance, don't tell me about it, I don't want to know. Is that correct?

Mr. COLSON. Correct.

Ms. HOLTZMAN. And then subsequently Mrs. Hunt called your secretary on October 22, 1972, and your secretary mentioned that to you and you said to her in words of substance, don't tell me, I don't want to know about it. And then in November 1972 you had a conversation with Mr. Hunt on the phone in which Hunt says, in substance, that I thought you would want to know that this thing must not break apart for foolish reasons and you say in various points in this conversation don't tell me any more, I am reading you, you don't need to be more specific.

Is it fair to say, Mr. Colson, from all of these events that I have recited that there was a deliberate effort on your part to shield yourself from some of the facts regarding Watergate?

Mr. COLSON. There certainly was. It was—I felt after the first articles that came out in print immediately after the Watergate break-in, that almost anything I did to get myself involved in any way was going to run the risk of bringing it into the White House. I just didn't want to be—I knew I didn't have anything to do with the Watergate in advance but I didn't want to be the unwitting instrument by which it dragged the White House in, and that's why I tried to keep myself as distance from it as I possibly could.

Ms. HOLTZMAN. You have also testified to various conversations you had with the President subsequent to June 17, 1972, especially during the summer of that time, and then even into the fall. Did the President ever say to you in any of those conversations, Chuck, in words of substance, Chuck, what's happened, tell me everything you know about it, I want to get to the bottom of this? Did he ever say that to you?

Mr. COLSON. No; I don't ever recall anything like that in that period. I do recall his talking a couple of times about thank God nobody in the White House was involved and I don't think he had any reason to think any of the White House staff were involved, at least he conveyed that impression to me.

Ms. HOLTZMAN. But he knew you were a close acquaintance of Hunt's?

Mr. COLSON. Uh-huh.

Ms. HOLTZMAN. And he never asked you, is that your testimony, what do you know about this, I want to get to the bottom of it?

Mr. COLSON. No.

Ms. HOLTZMAN. He never did?

Mr. COLSON. No.

Ms. HOLTZMAN. Thank you, I would like to yield, if I have any time, about 2 minutes to the gentleman from Maine.

Mr. COHEN. I thank the gentlelady for yielding.

Mr. Colson, I have just a couple of quick questions. As I understand it, on June 17 you received a call from Ehrlichman, and Mr. Ehrlichman asked you whether or not Hunt was still on the White House payroll and you said, or where Hunt was and you said I think he's over at CRP. I think you testified to that yesterday.

Mr. COLSON. Whatever I testified to. I am getting a little foggy. But, I think I said I hadn't seen him in several months.

Mr. COHEN. All right. As I recall it, the testimony was that he was, he was over at CRP. And then on the 19th you spoke with the President on at least one and possibly two occasions and the question arose again and you believe you indicated he was either on the White House payroll or CRP, but one or the other to the President. Do you recall that?

Mr. COLSON. Did I say that?

Mr. COHEN. I thought you did. That's why I'm trying to clarify that.

Mr. COLSON. I don't—

Mr. COHEN. You don't recall mentioning the status of where Hunt was?

Mr. COLSON. I might have mentioned the status. I think what I said is undoubtedly, though I don't independently recall, I undoubtedly told the President that we were trying to determine Hunt's status, which we were. The only way I can pin these kinds of things down, Mr. Cohen, it's hard, and I know what I was doing on those days. I don't recall specifically what I told the President, but I would imagine because it was my practice that I told him what I was doing and that we were trying to find out what was going on.

Mr. COHEN. But as far as your recollection, he was either on the White House payroll and should have been taken off and thought he had been taken off or he was at the CRP?

Mr. COLSON. I never had any doubt he was taken off the payroll. I never had any doubt we had him ordered taken off the payroll because I remember the incident.

Mr. COHEN. But then on the CRP payroll?

Mr. COLSON. I didn't really know. I assumed he was over there. I always thought he had gone over there.

Mr. COHEN. The reason I asked, Mr. Mitchell put out a statement that neither the White House or anyone on the Committee To Re-Elect is either legally or ethically responsible for the break-in itself, and that would seem to be inconsistent with the knowledge that was prevalent at that time.

Mr. COLSON. I think it probably is.

The CHAIRMAN. The 2 minutes the gentleman had expired.

Ms. HOLTZMAN. Mr. Colson, I would just like to ask you one brief question on this handwritten memo you had regarding ITT. I think it is Colson Exhibit 22.¹ And it's on the third page of that, and I asked you to read it, decipher the handwriting to me yesterday. And it says, as I believe you said, testified: "We run the risk of significant additional exposure, tracing this to R.N." R. N. refers to the President?

Mr. COLSON. Yes.

Ms. HOLTZMAN. "—Gleason and documents."

Mr. COLSON. Right.

Ms. HOLTZMAN. What was the concern you had with respect to Mr. Gleason? What was it, the concern you had with respect to the documents?

¹ See p. 387.

Mr. COLSON. Well, the concern with the document is laid out in the memorandum of March 30, and the concern with respect to Gleason is alluded to in the March 30 memo where I say that Marion's testimony will undoubtedly lead to Gleason.

Ms. HOLTZMAN. What is the problem with leading to Gleason?

Mr. COLSON. Gleason had been the fellow that, in 1970 ran the Town House operation and there had been articles about all of the fundraising in 1970. My concern was that Gleason, who was then on I think a retainer with ITT, or at least had been involved in some of the discussion between ITT personnel and the White House on the convention location while he was a private citizen in 1971, would get Gleason up to testify and then the committee would go into the whole question of the 1970 fundraising which it seemed to me was not a good thing to happen in the political year of 1972.

The CHAIRMAN. The time of the gentleman from Utah has expired.

Mr. Mezvinsky.

Mr. MEZVINSKY. Mr. Colson, first a short question regarding the conversation on the subject matter of Daniel Schorr, did Mr. Ziegler sit in on that conference with the President with you? Was Mr. Ziegler aware that he was putting out a false story?

Mr. COLSON. Yes, sir. I don't know that he sat in on the conference. Mr. Ziegler and I discussed the fact that Mr. Higby had made the call to the FBI within a few days of the time the call was actually made, so Mr. Ziegler was aware of it.

Mr. MEZVINSKY. OK. Fine. Now, I want to shift to a different area regarding the CIA and your thoughts on it. And there have been some comments that have appeared in the press about this.

And is it true, Mr. Colson, that you believe that one of the reasons that the President didn't want to investigate the CIA was because of campaign funds that may be diverted to Mr. Nixon or to his family?

Mr. COLSON. No. The only way I can explain this, and I'm awfully sorry because I know your time is limited, but I went to see Mr. Bast at a time when I hoped I could interest Mr. Bast in being retained to be a private investigator to try to find some answers to questions that were very troubling to me, both as a citizen and as a possible defendant, as a defendant in these cases. And in the course of that I did not know I was being taped. We discussed facts, many of which have now been published in the Baker report. And I really commend that to any Member of Congress for reading, that it is good reading, important reading.

Mr. MEZVINSKY. But did you believe that out of the \$100,000 of Rebozo money that was in his possession, that that could have been transmitted for the President's personal use?

Mr. COLSON. I had no, absolutely no personal knowledge of that beyond what I had read in the papers. Bast and I were talking about a lot of theories about why the CIA was involved in Hughes and why no one wanted to crack down on it and I think we talked about that as one theory. We talked about 10, 20 different theories. But, when you see them come out in print as facts, it is a lot different than really what it was. It was just speculating. I don't have any personal knowledge about that, Mr. Mezvinsky.

Mr. MEZVINSKY. You have no personal knowledge there?

Mr. COLSON. No, sir.

Mr. MEZVINSKY. Or about the other matter that was raised, that taped conversation regarding contributions that could have come from the Shah of Iran?

Mr. COLSON. I mean when Bast told me that I said I haven't, you know, I have never heard that but I will pass it along and I did.

Mr. MEZVINSKY. I was going to yield. I will yield to Mr. Conyers who had a question.

Thank you.

Mr. COLSON. Yes, sir.

Mr. CONYERS. Did you ever discern in that same conversation that Mr. Mezvinsky alluded to that the President was at times on the verge of cracking down on the CIA? Was that in the theories that you discussed?

Mr. COLSON. Yes. I had the impression also, Mr. Conyers, however, in the conversation I had with the President about the CIA that he was interested in trying to find out the facts and cracking down on them if, in fact, they had exceeded their charter and had been engaged in a lot of domestic activities they didn't belong in.

Mostly speculation.

Mr. CONYERS. Was it correct also that Mr. Haig usually took a dim view of that?

Mr. COLSON. Pretty much. I testified to that yesterday, yes, sir.

Mr. CONYERS. Well, have you asserted in this conversation that the Pentagon used some kind of unethical influence, extortion is a strong word, to keep the President from dealing with a military man who may have been removing secret papers?

Mr. COLSON. Well, extortion is too strong a word. I believe one of the reasons why it was impossible to crack down on the military when it was discovered that they were taking documents out of the NIC is there was the fear of the disclosure of those documents themselves, which would be part of the due process of punishing the people involved, and would be very damaging, so in effect they were in a position where you really couldn't crack down on them because of what they knew and what they had taken.

Mr. CONYERS. Would this be a fairly accurate statement in the discussion about some of the theories you were exchanging with Mr. Bast, that the President could not fully trust anyone in the White House?

Mr. COLSON. Well, my point was that, you know, people around the President had long service and experience in the defense establishment and I said, Bast, that you know, it is pretty hard to know who we can turn to and really talk to about this.

Mr. CONYERS. Right. Now, did you finally speculate about——

The CHAIRMAN. The time of the gentleman has expired, but you can finish the question.

Mr. CONYERS. But did you speculate in the theories about a possible CIA takeover of the Government?

Mr. COLSON. No, no. Well, I don't know——

Mr. CONYERS. Or is that going much too far?

Mr. COLSON. That's going much too far. Mr. Bast—I would appreciate——

Mr. CONYERS. How did you characterize that discussion, if that's describing it?

Mr. COLSON. The basic theory was that if the JCS was spying on us I saw no reason why the CIA would not be doing the same thing.

The CHAIRMAN. The time of the gentleman from Iowa has again expired.

Mr. Donohue.

Mr. DONOHUE. I think you have stated, Mr. Colson, that the President decided in mid-July 1971 to form this special unit?

Mr. COLSON. Yes, sir.

Mr. DONOHUE. That became known as the "Plumbers." And do I understand that when it was formed that most of the members assigned to it were on the White House payroll?

Mr. COLSON. Yes, sir. I think that's correct.

Mr. DONOHUE. And at some time they were transferred from the White House payroll to the payroll of the Committee To Re-Elect the President, is that correct?

Mr. COLSON. Mr. Liddy went to the Committee To Re-Elect the President in I think the testimony is December and that's my recollection. Mr. Hunt went over there after that. They would be two of the individuals; yes, sir.

Mr. DONOHUE. Now, I think you stated in answer to one of the questions put to you by a member of the committee that after the break-in at the Democratic National Committee Headquarters you got hold of Bruce Kehrli?

Mr. COLSON. Yes, sir.

Mr. DONOHUE. To find out if Hunt was still on the White House payroll?

Mr. COLSON. Well, not quite in that sequence, Mr. Donohue. I talked to my own staff first, Mr. Howard and my secretary at the time and then on Monday when I came in we were meeting with Kehrli on Friday to find out what had happened to this paperwork regarding Hunt but we did meet with him on Monday; yes, sir.

Mr. DONOHUE. But your staff associate told you that Hunt was no longer on the payroll of the White House?

Mr. COLSON. That's correct. Yes, sir.

Mr. DONOHUE. And why was it necessary for you to check with Bruce Kehrli?

Mr. COLSON. Well, because Hunt still appeared in the phone book and still had an office, we discovered on Monday, and Kehrli was the chief administrative fellow so we really wanted to find out where there had been a breakdown between the instruction to take him off and the actual processing out, whatever that involved.

Mr. DONOHUE. And as a result of your talking with Kehrli you found that insofar as his office records were concerned that Hunt's name did appear?

Mr. COLSON. Well no, not quite. We found out that he had never completed whatever processing he normally did because of this question that came up over the survivor benefit election on Hunt's retirement. But no, we did find that day that no payroll requests or no pay vouchers for his per diem had been submitted by Hunt after the date of the Howard memo terminating him so, in fact, he was terminated

whether Kehrli had completed whatever the formal paperwork is or not.

Mr. DONOHUE. In describing a typical day of the President, the first order would be the reading of the news summaries?

Mr. COLSON. Yes, sir.

Mr. DONOHUE. And each morning in reviewing the news summary he would send out notes to different members of the staff, is that correct?

Mr. COLSON. Well, he would make marginal notations, sir, on the news summary itself, which notations would be translated by the staff secretary and turned into memorandums that would then go to members of the staff. That was the customary procedure. There were some exceptions.

Mr. DONOHUE. And insofar as your knowledge goes, that routine was followed by the President up until June 17, the date of the break-in?

Mr. COLSON. I think it continued after that. That was——

Mr. DONOHUE. And it continued on until March 21, 1973?

Mr. COLSON. Well, I left the White House on March 10, so I just assume that would be his continuing practice.

Mr. DONOHUE. You don't know any reason why he should deviate?

Mr. COLSON. No, sir.

Mr. DONOHUE. From his usual routine?

Mr. COLSON. No.

Mr. DONOHUE. Now, between the date of June 17 and March 21, as far as your knowledge goes, the newsprint and other media was replete with the break-in, with items connected with the break-in?

Mr. COLSON. Yes, sir.

Mr. DONOHUE. And those involved?

Mr. COLSON. Yes, sir.

Mr. DONOHUE. And do you know if the President in reading his news summary would make any notes to send out, notes on the margin as pertaining to the break-in to any members of the staff?

Mr. COLSON. I would just assume that was part of his practice. I don't recall specifically getting any but I might well have from him.

Mr. DONOHUE. When did you first learn of this \$350,000 that was in the hands of Mr. Haldeman?

Mr. COLSON. We were trying to think of that earlier. The first time I really knew for a fact about it, I guess was when I read it in the testimony, although there had been accusations in the press about it, as I recall, sometime during, either during the campaign or shortly thereafter.

Mr. DONOHUE. But between June 17 and the election, it never came to your attention?

Mr. COLSON. No, sir, it did not other than whatever was in the press.

Mr. DONOHUE. And you never knew, never found out how that \$350,000 was being used?

Mr. COLSON. I did not, sir, until I heard the testimony.

Mr. DONOHUE. If I have any further time left I will yield to the gentleman from——

The CHAIRMAN. The gentleman's time has expired.

Mr. COLSON. Could I just make one addition to that answer. I did know, I don't know where it came from, that certain funds which had later become evident came out of that \$350,000 were delivered to one of my assistants for the purpose of an ad following the Hai-phong mining, but I did not know that the May 8 decision—I didn't know there was such a fund. It later came out that a portion of that was used by one of my assistants.

Mr. DONOHUE. Thank you.

The CHAIRMAN. The gentleman from Michigan has 3 minutes and 25 seconds remaining.

Mr. HUTCHINSON. I yield back the balance of my time.

The CHAIRMAN. The gentleman from Texas I understand has yielded his time to the gentleman from California. I recognize that gentleman from California, Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

I won't take the entire time. Mr. Colson, did the plumbers also undertake to discredit or investigate Tad Shultz of the New York Times?

Mr. COLSON. There was—there was some activity with regard to Mr. Shultz. I remember something Mr. Hunt prepared about it, yes, sir.

Mr. EDWARDS. Was his phone tapped?

Mr. COLSON. I don't know.

Mr. EDWARDS. Thank you. I believe you testified, Mr. Colson, that the plumbers plugged the leak, shall we say, the SALT leak?

Mr. COLSON. Yes, sir.

Mr. EDWARDS. And the Joint Chief leak?

Mr. COLSON. Yes, sir.

Mr. EDWARDS. Do you have some evidence you could provide to the committee later on to that effect because we do not have that evidence.

Mr. COLSON. Well, I think the Special Prosecutor does. I think—I don't have it, and I would give you whatever I had, but—

Mr. EDWARDS. Well, you so testified and—

Mr. COLSON. Well, I can only testify from my knowledge of what was happening at the time. I don't, obviously, have—

Mr. EDWARDS. Who did you hear that from?

Mr. COLSON. I think from Mr. Ehrlichman. Well, Mr. Ehrlichman and the President about the SALT leak and I think on the Joint Chiefs—well, I don't know whether it was Ehrlichman.

Mr. EDWARDS. Well, then, perhaps you or Mr. Shapiro can furnish the committee in the next few days the reasons for your testifying to the committee that those two leaks were plugged by the plumbers.

Mr. COLSON. Well, that's my belief. If you are looking for documentary evidence, I would recommend that you ask your counsel to seek it from the Special Prosecutor, whom I think has it.

Mr. EDWARDS. Yes, sir, but of course you testified to it.

Mr. COLSON. I can only testify to my knowledge at the time and what I knew and what I can tell you now that I knew.

Mr. EDWARDS. But at the time you didn't, I point out most respectfully to you, that you didn't testify that this was the way you sort of heard it. You testified as though you knew that the plumbers did solve these two leaks.

Mr. COLSON. Well, I knew. I mean, I—

Mr. EDWARDS. You think.

Mr. COLSON. I don't know how else to say it.

Mr. EDWARDS. Did you learn it from Mr. Ehrlichman?

Mr. COLSON. If the President tells me that he got the guys who did the SALT leak, I assume he got the guys who did the SALT leak.

Mr. EDWARDS. The President told you that?

Mr. COLSON. On the SALT leak I recall discussing with the President. The Joint Chief matter I recall Ehrlichman talking about.

Mr. EDWARDS. Thank you.

I think, Mr. Chairman, we should clear up one point and I will try to move right along, about the Pentagon papers and the Soviet Embassy. In book VII, part 1, the last sentence does say that the White House staff members were told by Assistant Attorney General in charge of the internal security division, that some or all of the Pentagon papers had been delivered to the Soviet Embassy on June 17. Then the next item that I refer the committee to is book VIII, part 3, item 77.1.¹ It points out that Mr. Ehrlichman was informed by Egil Krogh on November 1, 1971, and David Young, that the prosecution of Daniel Ellsberg would be more difficult because one, Ellsberg gave classified information to the press, not to a foreign power, a few weeks after Ellsberg went public the Department of Defense published virtually the same materials, and two, there had been no apparent damage as a result of Ellsberg's disclosures. And then in the last tab which would be book VII, part 2, item 37.1² an 8 page memorandum by Mr. Colson to Mr. Haldeman dated June 25, 1971, on the Pentagon papers where Mr. Colson made no mention whatsoever of any delivery to the Russian Embassy of all or a part of the Pentagon papers.

Mr. COLSON. My recollection is and you could check this that the delivery of the papers to the Soviets was after the June 26 memo that I wrote. I would say this, which I think may help clarify the record, that I do not have any indication or evidence and didn't at the time that Dr. Ellsberg himself made the delivery. We did have evidence that other people were delivering copies of the papers. I was informed by General Haig who told me at the time the means by which the U.S. Government learned that the papers had in fact been delivered. And I had no reason to doubt the accuracy of what General Haig told me.

Mr. EDWARDS. This committee to my knowledge, has no such evidence, nor did General Haig provide us with any information to that effect.

Mr. COLSON. Well, if you ask him for it within the bounds of national security, I don't know whether he can give you the full details, but I can tell you it was explained to me in very explicit terms. It was——

Mr. EDWARDS. Now, I do want to yield to Ms. Jordan. Mr. Rangel?

Mr. RANGEL. Thank you. Mr. Colson, maybe you can help me in keeping my notes accurate. I understand that several times when the President had a lapse of memory he called upon you to help clear it up for him. Once was his involvement or rather lack of involvement in ITT, and he thanked God. Another time when he was confused as to whether or not he discussed granting clemency to Mr. Hunt and you assured him that you hadn't discussed it with him and he thanked God. And there was another time when he was assured, I suppose by Mr.

¹ See HJC, "Statement of Information," book VII, pt. 3, item 77.1, p. 1392.

² See HJC, "Statement of Information," book VII, pt. 2, item 37.1, p. 676.

Dean, that nobody in the White House was involved in Watergate, and again he thanked God. I don't recall whether when he called you on March 3 of this year to find out when the last payoff was to Hunt and you assured him that Mr. Bittman said it was before March 21, whether or not the President thanked God.

Mr. COLSON. I don't recall, Mr. Rangel.

The CHAIRMAN. The time of the gentleman has expired.

A VOICE. Thank God.

The CHAIRMAN. The gentleman from New York, Mr. Smith, had 3 minutes and 5 seconds remaining.

Mr. SMITH. I yield back the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman from Missouri has 5 minutes.

Mr. HUNGATE. I yield to the gentleman from Michigan, Mr. Conyers. No? Mr. Chairman, anyone seeking time?

Mr. RANGEL. Yes.

Mr. HUNGATE. I yield to Mr. Rangel.

Mr. RANGEL. What I am concerned with—

Mr. HUNGATE. In this ecumenical spirit.

Mr. RANGEL. Thank you. Is the President's concern about this last payment to Mr. Bittman, which you characterized to Mr. Haldeman as hush money, or money that could involve a violation of the law and then the President was insistent that you call back Mr. Bittman, and then he called you again because he was very concerned about when this hush money was finally paid, is that correct?

Mr. COLSON. Yes.

Mr. RANGEL. Now, I know you are going to tell me that everyone knew, but I don't know, why was the President so concerned when the last payoff was made to Mr. Hunt's demands?

Mr. COLSON. Well, I would have to just assume. I guess that it was because he was under the belief that he didn't order it and if it came after that March 21 meeting that might have one set of implications, and if it came before it would have another.

Mr. RANGEL. Now, I am assuming—

Mr. COLSON. I am just going by what I read now.

Mr. RANGEL. I am assuming that the President had nothing to do with obstruction of justice, I am assuming he was not involved in the payoff, and yet on March 3 he wanted you to report to him when Mr. Bittman got that last payoff to such a degree that either you or he, both of you, accused him of lying to escape an indictment so he was very concerned about that last payoff.

Now, did he discuss with you why he was so concerned?

Mr. COLSON. No, I don't recall that he did. But, I can understand why, if I had obtained information from Mr. Bittman, reported it back to Mr. Buzhardt, why it might, that information, if it proved to be wrong, might be a cause for the President later to ask what happened to the report that he had received about Mr. Bittman.

Mr. RANGEL. Thank you, Mr. Colson. I yield back the balance of my time.

Mr. HUNGATE. I yield to Mr. Waldie such time as remains.

Mr. WALDIE. Mr. Colson, was Mr. Hunt's mission to interview Dita Beard a legitimate effort?

Mr. COLSON. A legitimate effort?

Mr. WALDIE. Yes, was there anything underhanded or undercover or you would not want the public to know about? That was not a dirty trick, was it?

Mr. COLSON. I wouldn't characterize it that way. We were trying to find out the truth.

Mr. WALDIE. Did you know he was an alias, as he put it, when he made the trip to Denver?

Mr. COLSON. I didn't put it that way.

Mr. WALDIE. That's what your words were, an alias. I copied them down.

Mr. COLSON. Those were his words.

Mr. WALDIE. I see. Did you know he was an alias?

Mr. COLSON. His memo of March 14 said he was, he proposed interviews (alias).

Mr. WALDIE. Did you know that he was in disguise?

Mr. COLSON. Yes, I did.

Mr. WALDIE. When he went to Denver?

Mr. COLSON. I don't know if I knew that he was in a physical disguise but he was going in alias.

Mr. WALDIE. Why was he to go in disguise if it was a legitimate operation?

Mr. COLSON. I suppose——

Mr. WALDIE. Why did you think, not what you suppose.

Why did you think that it was necessary that he go in disguise if it was a legitimate operation?

Mr. COLSON. Alias. I didn't give it much of a thought, to be honest, Mr. Waldie. I didn't obviously want somebody from the White House going out interviewing her.

Mr. WALDIE. All right. Next question. You knew that the cables that were manufactured by Hunt at your direction were in fact, fabricated involving the Diem, did you not?

Well, he showed them to you, whether they were at your direction, and let's assume they were not, you saw the cables and you knew that they were fabricated; did you not?

Mr. COLSON. I saw, I was aware of. I don't know that I actually physically saw one cable that was——

Mr. WALDIE. Did you know it was fabricated?

Mr. COLSON. Yes, sir, I did.

Mr. WALDIE. Did you then tell him not to publish that cable or not to use it or to destroy it?

Mr. COLSON. Yes, sir. I certainly didn't tell him to destroy it——

Mr. WALDIE. What did you tell him to do, go back and work on it some more, didn't you?

Mr. COLSON. No. Mr. Lambert—well, it's a very long chronology. Well, I have testified to it at some length and probably will again. But. I don't think we can do it in your 5 minutes. I can just say this to you, that once I knew he had shown that to Mr. Lambert, I did everything I knew how to get Mr. Lambert off of that story.

Mr. WALDIE. Did you tell Mr. Lambert that what he had been shown by Mr. Hunt was in fact a fabrication

Mr. COLSON. Except for the fact that I didn't tell that to Mr. Lambert.

Mr. WALDIE. So you did everything except tell Mr. Lambert the truth?

Mr. COLSON. I was starting to say that; yes, sir.

Mr. WALDIE. I have no further questions, Mr. Chairman.

Mr. HUNGATE. I yield back the balance of my time.

The CHAIRMAN. The gentleman from New Jersey has 2 minutes and 32 seconds remaining. Mr. Sandman.

Mr. SANDMAN. I yield back the balance of my time.

The CHAIRMAN. The gentleman from Pennsylvania has 2 minutes and 50 seconds.

Mr. EILBERG. Thank you, Mr. Chairman.

Mr. Colson, I would like to go back to your plea of guilty to the obstruction of justice indictment in which you pled guilty to defaming and destroying the public image of Ellsberg, defaming one of his attorneys, and trying to get the psychiatric files for the purpose of impeding the trial of Ellsberg. And would you tell us once again why you pled guilty to the indictment?

Mr. COLSON. Well, I pled guilty to the information, Mr. Eilberg, which information I proposed to my counsel that I plead to because I wished to establish a precedent to discourage that kind of activity in the future.

I thought that would be a worthwhile contribution to the judicial system.

Mr. EILBERG. But you were not guilty in your own mind, is that true?

Mr. COLSON. I certainly was guilty of a scheme to put out material about him that would have made it more difficult to obtain a fair trial, and I had come to learn how damned unfortunate it is when you are a defendant. More than unfortunate.

Mr. EILBERG. You say you are guilty of the various counts in the indictment?

Mr. COLSON. Mr. Eilberg, I pled guilty to that information.

Mr. EILBERG. But, weren't there other ways, I mean, there are serious consequences that follow the course, imprisonment, possible disbarment.

Mr. COLSON. Yes, indeed.

Mr. EILBERG. And you did this knowingly, of course?

Mr. COLSON. I certainly did.

Mr. EILBERG. Now, couldn't you have held a press conference, or written newspaper accounts or written a book and demonstrated to the American public what had happened without going this route?

Mr. COLSON. There—first of all there was no bargaining with the prosecutor. I did not plea bargain in the traditional sense of coming in and saying here's the testimony I will offer if you will agree to a reduced count.

I might have done better by myself if I had been able to. This was a one—the one area where I felt a sense of responsibility in, and I took my responsibility, and that was that.

Mr. EILBERG. Thank you, Mr. Chairman.

The CHAIRMAN. The committee will recess until it has had an opportunity to cast this vote and then we will return.

[Short recess.]

The CHAIRMAN. The gentleman from Indiana has 2 minutes remaining.

Mr. DENNIS. Thank you, Mr. Chairman.

Mr. Colson, if General Haig knew that copies of the Pentagon Papers had been delivered to the Russian Embassy, would it be a fair reasonable inference that this information was also known to the President?

Mr. COLSON. Yes, sir, and I think it came up in a conversation that I had once with the President.

Mr. DENNIS. That is all. Thank you.

The CHAIRMAN. Mr. Colson, I just have a couple of questions. Then I understand you asked permission to be able to address us for about 30 seconds or 1 minute.

Mr. COLSON. Just 1 minute.

The CHAIRMAN. Mr. Colson, you stated that while your relations with Dean had been all right, you then had reservations as to how you felt about Mr. Dean. That was when you learned that he had gone to the Attorney General. Would you tell me why you then had reservations?

Mr. COLSON. Well, I think I felt, Mr. Chairman, when I said that my relations with him earlier were good, they were good. I thought John Dean was a very fine young fellow who was trying to do a good job in the White House most of the time that I dealt with him. I got along with him fine. What I think bothered me when I went to the U.S. attorney in mid-April was that I felt as an attorney—being an attorney, being the President's counsel—that he owed his first allegiance to the President to let the President take the lead in breaking open the Watergate. And I am convinced the President was headed to do that. I had that feeling strongly in the conversation I had with him on April 12.

The CHAIRMAN. Is that the reason why you had reservations about him?

Mr. COLSON. I just felt he wasn't serving the man that he was supposed to serve.

The CHAIRMAN. Don't you think his first obligation was to serve his country, and if he found that there was something of tremendous concern to all of us, that was his obligation rather than to serve any one individual?

Mr. COLSON. Well, I think all of us, Mr. Chairman, have learned that we owe first obligation to the country and maybe we have become excessively loyal to the individual we happen to be serving. But in that case, particularly when he was acting as counsel, I felt that he hadn't, based on what I knew at that time, had not exhausted the possibilities of enabling the President himself to solve the problem rather than he, Dean, going and seeking to save his own skin. If he had done it perhaps without seeking immunity for himself, then I would have felt maybe it was an act of conscience. I felt it was an act of saving himself at the expense of other people.

The CHAIRMAN. Well, reflecting back at that time and knowing, at least from what you know now, that he went to the U.S. Attorney and disclosed information for whatever purpose in order to serve the cause of justice, do you still have reservations?

Mr. COLSON. Yes, sir, and it is easy to say that after the fact, but I think I know what I would have done myself in that position.

I would have gone to the President and said, look, Mr. President, this is what I know. Either it is wrong and it has got to stop and you have to announce it yourself or I have to go to the U.S. Attorney. But the President would have had to do it. That was the man John Dean was serving. Just to go and seek to bargain for himself just didn't seem to me to be ethical.

The CHAIRMAN. Mr. Colson, in your statement before the court, in your plea to the information, you stated that the President on numerous occasions, I think you said——

Mr. COLSON. Yes, sir.

The CHAIRMAN. On numerous occasions had urged you to spread defamatory information regarding Ellsberg and Mr. Boudin?

Mr. COLSON. I think the phrase was "urged me to disseminate damaging information about Daniel Ellsberg, including information about Ellsberg's attorney."

The CHAIRMAN. I am more concerned with the "numerous instances." What do you mean by numerous?

Mr. COLSON. I guess Father Drinan was trying to get at that point with me earlier. From time to time, the question came up as to whether we were getting the facts and evidence out through congressional investigation and through other means about what had really motivated Ellsberg, what kind of person he was, why he did what he did. That is what I meant when I made that statement in the court.

The CHAIRMAN. And you looked upon this as the judgment of the President? Did you not?

Mr. COLSON. Yes, sir.

The CHAIRMAN. And you never questioned his judgment, according to your own statement?

Mr. COLSON. I also said I carried out those instructions very willingly and thought my conduct at the time, my motives and purpose were not what they ultimately, the consequences ultimately could have been.

The CHAIRMAN. Thank you very much, Mr. Colson.

Mr. St. Clair?

Mr. St. CLAIR. May I have two questions, maybe three?

Mr. Colson, on this subject, other than the material on Mr. Boudin, did you in fact release any damaging information concerning Mr. Ellsberg?

Mr. COLSON. I don't recall any other instance when I gave anything else out to the press or to others about him.

Mr. St. CLAIR. And if you know, had the information on Mr. Boudin been, had already appeared in the public press?

Mr. COLSON. Yes, sir.

Mr. St. CLAIR. Namely, the Copley newspapers.

Mr. COLSON. It appeared in the Copley papers in July. A copy of that was sent to me by Mr. Dean. The FBI had arranged the publication of it.

Mr. St. CLAIR. So that the record is clear, the only material that you in fact released concerning Mr. Ellsberg was the Boudin material which is now in the record?

Mr. COLSON. That is all I recall. I did talk to other people about Ellsberg, but it wasn't disseminating it to the press in the sense that you are asking.

Mr. ST. CLAIR. And that material had already been in the public press?

Mr. COLSON. Yes, sir.

Mr. ST. CLAIR. Thank you.

No further questions.

The CHAIRMAN. Mr. Colson, you may now have your one minute.

Mr. Jenner?

Mr. JENNER. Mr. Chairman, I have a few questions.

The July 9 memorandum for Mr. Colson about which he was questioned by members of the committee this morning from his assistant, Mr. Howard, consisting of nine pages, has been marked Colson's exhibit No. 25 and may be received of record accordingly.

The CHAIRMAN. It will be so identified.

[The document referred to was marked for identification Colson's exhibit No. 25, and follows:]

[Colson Exhibit No. 25]

THE WHITE HOUSE,
Washington, D.C., July 9, 1971.

Memorandum for Charles W. Colson.

From: Doug Hallett.

Subject: "Pentagon Papers" and Aftermath.

I am sure it will be no surprise to you to learn that I think we mishandled the "Pentagon Papers" controversy. Legally and politically, I think our case was most unfortunate. But I am not really very concerned now about what did happen. The case was complex; the issues were misunderstood; most people were only vaguely aware of what was going on. I think the long-run impact of the documents will be almost nil. In retrospect, the papers carried very little, if any, new information; what information was revealed will not be remembered. (Implicit in this, of course, is that nobody got hurt very badly by the "revelations"; the damage to people like Mr. McNamara or Mr. Bundy was not so great that it will be readily transferred to current Democrats) I don't believe our action will be remembered very clearly either. The whole issue, I believe, will be regarded as one more aberrations of the Vietnam War. And the uneasiness people feel over such aberrations will recede just as quickly as the war does.

What I am concerned about is making sure nobody tries to think up strategies to try to keep the issue alive and exploit it for our benefit. Such a strategy would be, in my view, ethically questionable. And as with most unethical strategies, it would be very prone to back-firing on us politically. First of all, getting involved now in how we got into Vietnam will inevitably encourage people to research, in depth, the President's position in the late forties and early fifties, his role in the Eisenhower Administration, and his posture during the Kennedy-Johnson years. Whatever the reality is (and I know enough about it to know that what he advocated was wrong and is not politically saleable—especially in the heated environment that further probings into the past now would encourage), at best there'd be a stand-off between the Democrats and us—and that would inevitably damage the President. He's supposed to be above this [unreadable]. More importantly, he was much more and people aren't going to be too discriminating about which aspect of the war or which period they don't like and could be made to seem almost as untrustworthy as President Johnson. The more I think about it, the more ways I see for a Democrat such as Mr. Muskie to argue that he didn't know how bad it was, but that somebody like Mr. Nixon should have and should have told the American people.

Secondly, an inquiry into the past would undoubtedly lead to an inquiry into President Nixon's conduct of the war. There would be revelations or mock-reve-

lation (it would make no difference which) about Vietnam, Laos, and Cambodia. The whole question of unnecessary government secrecy would be investigated. Since we're as vulnerable on this point as the previous administration and since, it appears now, we did unnecessarily keep the "Pentagon Papers" secret, depriving them even to the Congress when Senator Fulbright asked for them five times, we'd get hurt much more than the Senate Democrats about whom we've concerned ever could. The whole issue of selective leaking by the government (I'm sure we do it just as much as the previous administration) and the contrast between our willingness to leak certain things and our unwillingness to give these "ancient" documents even to the Senate would not be to our advantage. We should clean up this problem, but in a way we can control and guarantee credit for ourselves.

Thirdly, given the public mood, further discussion now of the origins of the war can only undermine support for any kind of support for the South Vietnamese government. It would lead to a public purging which would undermine the President's ability to conduct the war, damage his effort to teach the public responsible internationalism, and devastate any chances we have of gaining credit for ending the war without sacrificing our objectives. I don't think there's enough in these documents to really hurt the Democrats as a group. There is enough, however, to hurt public support for the war. And, at the least, any clever Democrat could make our effort to double current Democrats with the war seem petty, irresponsible, and highly partisan. It might even help the Democrats by helping them purge themselves of the Vietnam War in a way we cannot (and, of course, should not) especially if the final outcome of the war is in doubt as it almost certainly will be.

These are just some of the ways can think of right off in which we could be hurt by further concentration on these papers and the past. Some of them might not occur. Some of them might not be very damaging. But there is a grave risk that at least one or two of them would be. As I have said many times since I've had the privilege of communicating with this organization, the President has got to resist the temptation to strike below the belt—no matter how little the risk. You can't program shit one-way. With the news and information sources people have today, they're inevitably going to get a counterflow. And when the shit starts flowing, the top guy—obviously the President—gets hurt the most. People don't want this kind of thing. Not after the last decade. People just don't want to be suspicious of their government and what it's doing. If they are, they're going to throw us out—and we'd probably deserve it.

The President's main selling point is that he really is "bringing us together." (By the way, I always liked that expression. We should revive it gradually as we move into the campaign year) through his response to the big issues. We should not damage that, as we have on several occasions in the past, by responding badly on little issues. The Murray Chotiner School of Politics died with the boob tube, mass affluence, personal mobility, and the advent of mass education. Thirty years ago the average voter was a grade school drop-out. Now he is a high school graduate and one much more sophisticated than ever before. He's not going to be fooled into thinking Senator Muskie is responsible for McGeorge Bundy's arrogance, but he may well come to the conclusion that by trying to make it seem so we're covering up our own skeletons.

Not being a lawyer, I am not sure you really want my comments on our handling of the legal aspects of the case. But since lack of expertise and experience has never before stopped me from commenting on such subjects, I will plunge right in. Had I been handling the case, I would have first had Secretary Laird, not the Attorney General, call, not telegram the Times admitting we did not know what's in the documents, conceding we've probably erred in withholding all of them from Senator Fulbright, and asking for a reasonable time to review them for the expressed purpose of declassification. If they refused, I would have had the President call Punch Sulzberger with a personal request for the same. If they still refused, I would have filed a preliminary injunction and put the President on TV for a short, no more than 15 minute, explanation of why he was taking this extraordinary step. (I think it too bad that the President had nothing to say about one of the most important legal cases in years. I like to think it was because he didn't want to associate himself with what he knew was a lousy case.)

In my view, the greatest error of our handling of the issue was our argument that publication violated national security. At best, we didn't know whether

that was true or not. And at worst, we may have known enough about the documents to have made a determination on the bulk within a matter of hours. But, in any event, we should have filed the injunction not on the grounds of national security, but on the grounds that it was an emergency (to the degree that it was; any documents that could have been declassified should have been as soon as possible even if all of them could have been, in that case, we would have skipped the TV bit and had the Attorney General make whatever criminal prosecutions he could) that the potential for damage to the government was greater than the potential for damage to the Times if security was violated, and that if security had been violated the damage would be irrevocable.

By my understanding of the difference between a preliminary and permanent injunction, we did not have to argue the national security issue on the first round. At the preliminary injunction stage, all we had to do was argue that national security might be violated. In the Presidential statement I would have had, we would have admitted that; admitted that classification procedures are probably out of control; upgraded the review of these procedures we now have going on; conceded that Secretary Laird may have been wrong in refusing the documents to Senator Fulbright when we didn't really know enough about them to make that determination; given the documents to the Senate Foreign Relations and House Foreign Affairs Committees to establish our openness; told the public we knew the Times did not want to violate national security; even gone through the Times' record of having protected national security at the time of the Bay of Pigs. We could have done all these things and probably should have done most of them because the only argument we had to make in support of an injunction was that we needed time to determine whether or not those documents contained information violating the national security and that the Times could not and should not make that determination on its own. And having done these things, we would have been clean as could be in going against the Times. The possible victory would not have been as great as it was doing what we did do, but it would have been assured.

Of course, I'm not at all sure we would have had to go this far. If we'd approached the Times properly and admitted our own errors, they might well have suspended publication. If we constructed the argument we did deliberately because we wanted to get into a fight with the Times we were idiots because you can't win battles like that and if the President of the United States can't win, he loses. But assuming we did not want this battle, we played it very poorly. We let the Times get us into a free press vs. censorship battle when we did not have to. We could have constructed a very strong argument for a preliminary injunction on other grounds (the truth). Whether or not we had won, we would not have appeared the way we did. I suspect we might well have won. And if we had won, that obviously would have been to our credit and to the distinct discredit of the Times and those identified with it.

The case we made had other disadvantages as well. We identified ourselves strongly with the style of the previous administration-secrecy, apparently unwarranted, without explanation. More importantly, we seemed to be protecting the substance of the Johnson Administration policy. We clearly transmitted the impression that there was something in those documents and the policy they reflected that had something to do with our policy; that it was necessary to protect the past to protect our own policy. What's worse, we knew we were doing it. Those speeches we sent to the Hill defended President Johnson in no uncertain terms. In his televised statement, the President could have indicated he did not think now was the best time to go into the past (that's true), but that is as far as we should have gone. Certainly that, by itself, is no justification for suspending the free flow of information or backing Lyndon Johnson. The argument that the documents could damage the peace talks is, especially in review of the last few weeks, patent hogwash.

Having criticized what we did do, I want to make it quite clear that I think this is one mistake that will not hurt us very much. The issue was extremely confusing. I myself still have many, many questions about it. I suspect, though, that several vague impressions will be left in the public mind. First of all, I suspect there is the strong feeling that the government deceives the American people, especially as far as Vietnam is concerned, and that Mr. Nixon is party to that deception. For our part, I believe this will be quite adequately counter-balanced by our conduct of the war. On the other hand, I doubt the Democrats will be hurt very much either. The documents themselves were just not very

spectacular. While Mr. Humphrey may have lost some mileage (I really don't think so. He was never in the running and these documents just confirmed peoples' impressions of him; they didn't add to those impressions) nobody else will lose by them. I don't think Democrats like Mr. Muskie are any more vulnerable for their association to the war than Republicans like the President; probably much less so. The only people who gain in something like this are people as far out (and politically impossible) as Messrs. McCarthy, Lindsay, McGovern, Hughes, McCloskey, and Bayh. Since the war is winding down, their gains are temporary and marginal at best.

Secondly, we have confirmed our hostility to the press. Obviously there's nothing new in this. Nor is there anything anybody cares about. At this stage, I don't think too many people are too concerned about the press one way or the other. Sure, the press is biased, but who ain't? The press issue we made obscured the real press issue—responsible citizenship—that would have been made had we constructed our case differently, but that's about all it did. By the way, before the 1972 campaign gets under way, I would hope we'd clean this particular act up quite a bit. I would suggest a meeting with a group of publishers (including Punch Sulzberger) in the early fall and another with the leadership of whatever the journalistic fraternal organization is. Having worked in the press, I can assure you that they are biased by and large. But I also believe that we've been irresponsible in our criticism too. While we have accomplished the much needed task of demythologizing the press' credibility, we could have done that without discrediting ourselves had we approached the issue less bombastically. I'm reading a book now, for instance, which points out that the Vice President's Birmingham speech blasting the Times and the Post for monopoly control was delivered in a city whose information sources (press and radio) are among the most concentrated in the country and against two papers which compete in two of the three competitive newspaper cities in the country.

Thirdly, I suspect people will remember that somewhere back when something occurred in which President Nixon got burned by the New York Times. Like the 1970 campaign, the Carswell Supreme Court nomination and all the haggling about school desegregation, this is just one more of those things with which we'll have to live. We can, of course, counterbalance these problems with our main-line policies and better, more graphic public explanation of them. But we should be aware that such mistakes do add up and lead to a gradual erosion of respect for the President's judgment. While there's nothing new I would recommend to counter this, I think the "Pentagon Papers" controversy should reinforce what I hope would be a predisposition to avoid shooting from the hip and make sure we understand what we're doing before we plunge head-long into it. Even when we don't actually get hurt in this kind of thing, it does mitigate against our ability to put across the calm, reasoned, responsive President with balanced, middle-of-the-road programs I think we should be transmitting.

All this being the case, I can see no further benefit we could derive by expending any more energy on this issue. Frankly, even if we had constructed a reasonable case, I would not have been for concentrating on this case. Doing so could easily have been made to seem petty and cheap. But in view of what has happened, taking any further action would be absurd. We have as many, if not more, skeletons in the closet as the Democrats, particularly Democrats like Mr. Muskie. I think we should upgrade in a couple weeks or even a month our committee examining the declassification question. But that's it. Challenging the Democrats on this issue, particularly in view of the press' inevitable alliance with the Democrats on this one, would only be to our disadvantage.

I am, of course, entirely sympathetic to any prosecutions the Attorney General or others may make against Mr. Ellsberg or anybody within the Times organization. That part of the issue is simply a clear-cut case of theft of government property. But we should stay out of any such prosecutions. If we had constructed our argument around the possibility of security damage rather than the actual fact of it, Mr. Ellsberg and the Times might be, in some quarters, vulnerable to criticism for anything up to and including disloyalty. (In my view, even with our handling of the matter, they were very irresponsible.) Given our unwillingness to surrender the documents to Senator Fulbright, however, even then we should have stayed out of the case. With the situation the way it is, the imperative for leaving any criminal prosecutions alone is even greater. The openness and availability of our declassification channels does not have much credibility. And our handling of the case has made even the theft

issue seem less important. Perhaps it would be good to have an occasional mention of the theft in speeches by administration spokesmen and emphasis of the theft in the answer the President gives to the inevitable press conference question or the issue, but that's it.

Mr. Ellsberg, to the extent that he is anything, will probably emerge a hero. Man Against the System. He had no alternative. Rightly or wrongly, his conscience dictated what he did. The usual litany. As I say, I don't think it would be any different no matter what we had done. But if we try to blow Mr. Ellsberg's prosecution up, it will only further the embattled moralist image. To the degree that Mr. Ellsberg is made a public figure, then, we are going to suffer for it. Blowing it up ourselves will make us appear bullies. Anybody we prosecute on the Times or any other paper will, I think, appear less idealistic, but our efforts could, I'm quite confident, change even that. People don't like the war. I don't think they're going to get fired up by somebody who appears to have had no alternative but to break the law in trying to stop it. While some part of the President's constituency might like that kind of thing, the people we have to win over to win in 1972 will object to it quite vigorously.

I am not so impractical as to not recognize we may benefit to some degree if the Democrats keep fighting amongst themselves about the war and how it began. But because this is helpful it does not mean it is helpful if it gets out of control. This kind of squabbling will be most helpful to us if it is kept at a relatively low pace. If it gets going in high gear, we're going to become involved. We should most certainly discourage anything such as hearings on the Hill. We would inevitably be dragged into anything like that. More importantly, it would be irresponsible for us to establish that kind of precedent. I could also imagine us going into an orgy of self-revelation—such as releasing all the memoranda and information that went into the Vietnamization program. Besides establishing another bad precedent, this kind of thing would back-fire on us. It would seem orchestrated and contrived (rightly so) and would lead to demands for more and more information. And it would certainly encourage the opposition to examine Mr. Nixon's positions, past and present, and potentially undermine support for leaving a residual force in Vietnam if, as is likely, it led to a full-scale investigation of the war. The Hill and the press just won't let us get away with taking advantage of these documents for our own benefit. They're a can of worms and we should realize it.

Perhaps the greatest political impact of the "Pentagon Papers" will be the time we waste thinking about it. Maybe I am naive, but I think the best thing we can do is quit trying to take advantage of every little issue that comes along and keep our attention fixed on what we do best—governing the country. The President and the Administration have worked hard to design domestic and foreign policies which meet the real problems we face as a nation. Why distract attention from those efforts by always over-reacting to these minor crises? Every time we have, we have ended up cheapening the President and undermining respect for him among the people we are going to need in the next election. Haven't we learned by now that the electorate is too smart for this sort of thing? The time and energy of all of us is simply too important to be frittered away trying to design strategies which will back-fire on us. We have enough real work to do in getting across what the President actually is without spending our time helping our opponents get across something he is not.

Mr. JENNER. The second item about which members of the committee inquired is a one-page memorandum dated May 3, 1973, with the letterhead "The White House, Washington." It has been identified as Colson's exhibit No. 26. May that be made a part of the record?

Mr. DENNIS. Mr. Chairman, may I inquire?

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. Is this first document, this matter that Mr. Seiberling inquired about, the intern's critique, if we may refer to it that way?

Mr. JENNER. I believe it is, sir.

Mr. DENNIS. Well, Mr. Chairman, I would like to object to making that part of the record. As I understand it, here is a document written

by some unknown young man who once worked for Mr. Colson as a summer intern and who wrote a paper criticizing what he thought were Mr. Colson's attitudes in a memorandum that Mr. Colson wrote. I see no relevance or competence or purpose to the purpose of our inquiry. There is not even any evidence that Colson even ever looked at it or read it. In fact, I think he testified he didn't believe he had. If he had, it might bear on his frame of mind if that is important. I am not sure it is. But I just don't see what it proves here—a couple of degrees of hearsay and completely outside the issue of this inquiry. How can that bear on the question of impeachment of the President pro or con?

Ms. HOLTZMAN. Mr. Chairman—

The CHAIRMAN. I think the committee will be able to evaluate the document and I don't think it will serve any purpose other than to provide information for the committee.

Mr. DENNIS. Well, I think I can evaluate it, but my point is it is just not competent for any purpose here.

Mr. SEIBERLING. Will the gentleman yield?

Mr. DENNIS. I will just object to it.

Mr. SEIBERLING. Just for the record, the witness did testify that he received it, that he read it, he wasn't sure he read all of it.

Mr. LATTA. Mr. Chairman?

The CHAIRMAN. Mr. Latta?

Mr. LATTA. I would like to voice my objections for the same reason raised by the gentleman from Indiana, but then for a further reason. That is that these hearings are going to be printed; these exhibits are going to be printed; and the chairman of this committee is going to ask the House to print them and to print up *x* number of thousands of copies and they are going to go across the country and the people that read them are not going to know whether or not this individual was a credible witness before this committee or whether or not he was a credible intern insofar as his work is concerned. For that reason and many more, Mr. Chairman, I don't think we ought to clutter up the record with this kind of an exhibit.

Mr. SANDMAN. Mr. Chairman, may I be heard on this?

The CHAIRMAN. Go ahead, Mr. Sandman.

Mr. SANDMAN. I can't understand how this can be admitted at all since the person who wrote it is not even here to be questioned. If this is going to be admitted in this fashion, why doesn't someone then admit all of the damning statements that were in the Washington Post? It would have the same authenticity, including the one last week where they took out one real bad phrase and then buried on page 20, the qualifying part of the phrase. I think that this is ridiculous and it is not relevant at all and can't be accepted as any kind of proof.

Mr. SEIBERLING. Regular order.

The CHAIRMAN. Mr. Jenner? You have offered it?

Mr. JENNER. Mr. Chairman, I understood from the discussion this morning that when Congressman Seiberling asked Mr. Colson if he had a copy of that document and he said he did and would he produce it, which he did, that the staff was directed to prepare a Xerox copy of it, which we did. At that time, when the questioning with respect to the document was pursued, it was identified—no, we didn't identify it

as exhibit 26. After we Xeroxed it, we did identify it as exhibit 26 and it is my understanding that we were to raise the matter with the committee with respect to that document. All we were seeking is advice as to what we should do with the document.

Mr. ST. CLAIR. Mr. Chairman, may I—

The CHAIRMAN. The Chair has been advised, though, that there has been testimony on this matter—testimony with reference to the document. I don't see how we can possibly evaluate the document unless the committee has it before them. For that reason, I overrule—

Mr. DENNIS. Mr. Chairman, before you rule on that, may I be heard just one moment?

The CHAIRMAN. I think I have already heard the gentleman.

Mr. DENNIS. No, no, no; but I think I objected at the time, and I objected when Mr. Seiberling raised it.

The CHAIRMAN. I have ruled on the matter and I am not going to entertain any more discussion on it.

Mr. St. Clair.

Mr. ST. CLAIR. I won't discuss. I just want to record my objection.

[The document referred to was marked for identification Colson exhibit No. 26 and follows:]

[Colson Exhibit No. 26]

THE WHITE HOUSE,
Washington, D.C., May 3, 1973.

The President desires that the invocation of Executive Privilege be held to a minimum. Specifically:

1. Past and present members of the President's staff questioned by the FBI, Ervin Committee, or a Grand Jury should invoke the privilege only in connection with conversations with the President, conversations among themselves (involving communication with President) and as to Presidential papers. Presidential papers are all documents produced or received by the President or any member of the White House staff in connection with his official duties.

2. Witnesses are restricted from testifying as to matters relating to national security not by executive privilege, but by laws prohibiting the disclosure of classified information (e.g., some of the incidents which gave rise to concern over leaks). The applicability of such laws should therefore be determined by each witness and his own counsel.

3. White House Counsel will not be present at FBI interviews or at the Grand Jury and, therefore, will not invoke the privilege in the first instance. (If a dispute as to privilege arises between a witness and the FBI or the Grand Jury, the matter may be referred to White House Counsel for a statement of the President's position).

The CHAIRMAN. The objection is noted.

Mr. Colson?

Mr. JENNER. Shall I proceed, Mr. Chairman?

The CHAIRMAN. Mr. Jenner, do you have some more?

Mr. JENNER. I have some questions; yes.

Mr. Colson, in addition to the news summaries which the President read as you have testified, normally every morning, there has been some testimony that the President, at least at night, would make notes on yellow pads or yellow legal length paper. Do you recall that?

Mr. COLSON. Yes; that was a common practice. He would come in in the morning with a piece of yellow pad folded over with a lot of notes on it which he would pass on to staff members. It was sort of a way of his reminding himself of things that he wanted to talk about.

Mr. JENNER. All I have to ask you about that further, Mr. Colson, is, were the yellow pad notations—whatever they might be—were they

processed in the manner and fashion that you describe with respect to the processing of the news summary memorandums that the President might make?

Mr. COLSON. I don't know. The only time that I saw the President make use of that was when he was telling me things that he had thought about the night before that he wanted to pass on to me. So I don't know what happened generally.

Mr. JENNER. Now, do you recall an occasion on March 30, 1972, with respect to the subject matter of a possible telephone conference between Mr. John Mitchell and the President by telephone on the night of March 29, 1972?

Mr. COLSON. I had been told in Mr. Haldeman's office when Mr. MacGregor and I met with Mr. Haldeman on the morning of March 30, that not only had Mr. Kleindienst prevailed upon the President not to seek the withdrawal of his nomination, but that John Mitchell had called and had weighed in very heavily on the same subject.

Mr. JENNER. Mr. Chairman, Mr. Nussbaum has informed me that Mr. Conyers desires me to ask a question. Is that permissible?

The CHAIRMAN. I believe that the Members, in refusing to go along with the resolution that we had on the floor, did not provide for this kind of questioning through counsel. Unless the counsel has a question he himself wants to propound, I am going to recognize Mr. Colson for his 1 minute.

Mr. JENNER. Thank you, Mr. Chairman.

Mr. Colson, directing you to page 34 of your opening statement material identified here now as Colson exhibit No. 24 and to that portion in the upper half of the page 34, you are referring to a conversation you had with the President. Would you identify that time, please? I think you did yesterday, but just to orient the committee, would you—

Mr. COLSON. Late January or early February, possibly, but I think that—I tried to explain yesterday that there were at least two conversations but four elements and I simply laid out yesterday the four elements as best I could. It was late January.

Mr. JENNER. All right, sir. And you say that the last line of that upper portion of the page, "The President said that if I had any facts about the involvement of others in Watergate, I should bring them to him."

Do you find that?

Mr. COLSON. Yes.

Mr. JENNER. Did you draw to the President's attention on that occasion or any other occasion your memorandum of June 20, 1972, or any of the substance of that memorandum?

Mr. COLSON. Well, that memorandum I did when he talked to me on April 22 about the fact that Henry Petersen had raised the point of my phone call. I did discuss with him the fact that that just wasn't true, it had nothing to do with Watergate.

Mr. JENNER. Did you raise with him any other portions of the June 20 memorandum?

Mr. COLSON. I don't recall doing so.

Mr. JENNER. Is it your best recollection that you did not?

Mr. COLSON. Yes.

Mr. JENNER. Yes?

Mr. COLSON. Yes.

Mr. JENNER. Mr. Chairman, Mr. Doar has asked me to ask a few questions about Mr. Colson's notes, now exhibit 22.¹

Would you get those notes before you, Mr. Colson?

Mr. COLSON. Um-hmm.

Mr. JENNER. These notes were for the purpose of orienting the committee again. These notes were made in connection with what conference or meeting?

Mr. COLSON. Well, the first part of the notes were taken during a conference with Mr. MacGregor and Mr. Haldeman on the morning of March 30, 1972. From the middle of the third page on were notes I made to myself as sort of an outline for what became the memo of March 30, 1972, to Mr. Haldeman that is already in the committee—

Mr. JENNER. Now Mr. Colson—did I interrupt you? Are you finished?

Mr. COLSON. Yes.

Mr. JENNER. Just referring to the second portion, not the first portion, which you made up at a later time, was this the customary way in which Mr. Haldeman in meetings would convey directions and suggestions to you and other members of the staff in that meeting?

Mr. COLSON. I would say so. It is not atypical.

Mr. JENNER. Atypical?

Mr. COLSON. It was not atypical.

Mr. JENNER. But are you making a distinction between what was a typical meeting and what was not a typical meeting—

Mr. COLSON. No.

Mr. JENNER [continuing]. Insofar as Mr. Haldeman in conveying his thoughts, suggestions, and directions?

Mr. COLSON. No, sir.

Mr. JENNER. I have no further questions, Mr. Chairman. Thank you.

The CHAIRMAN. Thank you.

Without objection, the Chair recognizes Mr. Colson for a statement.

Mr. COLSON. I just wanted to say three things, Mr. Chairman, and two of them very quickly.

I alluded several times during my testimony in the past 2 days to my own grand jury deposition of August 28, 1972, when I was trying to answer questions and say what I had said in that grand jury testimony. I have not seen that for several months. I haven't read it in several months. And I would like, if the Chair would give me permission and if the Special Prosecutor agrees, to provide that deposition for the record simply so there will be no confusion or simply so I haven't confused myself or the committee as to what was said in that deposition. I am drawing on memory when I explain what I said to Silbert in that first interview and I'd prefer for the committee to have the benefit of the whole interview if the Chair approves and if the Special Prosecutor does not object.

The CHAIRMAN. Well, it is conditioned on the Special Prosecutor's agreeing.

Mr. COLSON. Fine.

Mr. WALDIE. Mr. Chairman, may I ask the Chair a question at this point?

I agree with Mr. Colson. I think that is vital information for the hearing and if the Special Prosecutors require any request from the

¹ See p. 387.

committee, I hope the Chair will provide that request to the Special Prosecutor.

The CHAIRMAN. The Chair will do so.

Mr. COLSON. The second point I want to raise is in response to a point Mr. Conyers made and I answered it very quickly and glibly about did I ever say I would walk over my grandmother. I have become a little bit personally sensitive about that matter because it did raise in an offhand fashion with the editor of the Brown Alumni monthly and got into print. I later kidded about it. I don't think I ever said it. If I ever said it, I didn't say it seriously, Mr. Conyers, and I simply wanted to be sure that in my response, you understood that if I ever repeated the phrase once it go into print, I did so kind of in a joking fashion, but it wasn't the kind of humor that I now appreciate and I wanted to just amplify that one answer to you a little bit more.

There have been a lot of questions asked by the members of this committee today about why I pleaded to the offense I pleaded to. I have all of Watergate behind me, I believe. I am no longer a defendant in any of the cases and I am spending some time courtesy of the Federal Government, maybe going to get a little rest, I hope. So I say this just from the bottom of my heart, that the reason that I did it was I felt it was the right thing to do as a matter of conscience. I hoped it would help stop a practice.

But above all, I really just couldn't see myself, because I have always tried to do things constructively with my life, being a defendant. I simply wanted to come here and tell all of you the truth about what I knew. I really kind of feel that if everybody who was involved in this kind of unhappy episode in American government, anybody who had any part in it, would come and just own up—Ms. Jordan asked me did I ill serve the President? Sure I did. Plenty of times I should have stepped in and done things differently and wish I had. But I didn't want to perpetuate that. I wanted to be able to come here and tell you whatever I knew as best I can tell you, recall it, try not to make up a recollection and just give you the truth. And that is what I have tried to do.

I do want to say that I didn't quite expect the committee to be operating the way it is, and I suppose because I have been in the Senate working for a Senator and I have been around congressional committees a long time, I really have been deeply impressed, both by the questions that you have asked, by the notes that I have noticed each of you taking, by the fact that I think every one of you are looking at this in the long view of your historic role as you sit here. And I think you have all, it has given me a little restoration of faith in the constitutional process, because I think every one of you are taking this job seriously without regard to the cameras outside and are really trying to come to a just conclusion for the country. And I just thank you for having me.

The CHAIRMAN. Thank you very much, Mr. Colson and Mr. Adams and Mr. Shapiro. Thank you very much.

Mr. SHAPIRO. Mr. Chairman, there is one thing I do want to say with the permission of the Chair, and I am going to take 30 seconds. I have said it to the Chairman and I have said it to several members of this committee.

I have represented witnesses before congressional committees for something like 20 years in times, perhaps, as unhappy as these, with

passions, perhaps, as high as they are in these times. This is the most impressive committee performance it has ever been my pleasure to witness, both in terms of the treatment of the witness, in the attention of the members of the committee, in connection with the questions that were asked, in the kind of consideration the Chair has shown to other members of the committee and to the witness and the counsel. And I say as a citizen, wholly apart from Mr. Colson's counsel, and I want to separate that, you are very impressive people and I think you are doing a very impressive job.

The CHAIRMAN. Thank you very much.

The witness is excused.

[Material unrelated to testimony of witness deleted.]

The CHAIRMAN. Would the clerk please call Mr. Kalmbach?

We will recess for 5 minutes.

[A recess was taken.]

The CHAIRMAN. The committee will come to order.

Mr. Kalmbach, you have the right to remain silent and not to provide—will you stand, please? You have the right to remain silent and not to provide any testimony or information which may tend to incriminate you. But, if you do testify, anything you say here may be used against you in any other legal proceeding. You have the right to consult your attorney prior to answering any question or questions.

You have been provided, I understand, with a copy of the rules of the House and the rules of the committee.

Mr. KALMBACH. Yes, sir.

The CHAIRMAN. Would you kindly raise your right hand, please?

Do you solemnly swear that the testimony you are about to give before this committee will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. KALMBACH. I do.

TESTIMONY OF HERBERT WARREN KALMBACH, ACCOMPANIED BY JAMES H. O'CONNOR, COUNSEL

The CHAIRMAN. Will you please state your name and identify your counsel?

Mr. KALMBACH. My name is Herbert Warren Kalmbach. Mr. James H. O'Connor, my counsel.

The CHAIRMAN. Please be seated.

Mr. Jenner.

Mr. JENNER. Thank you, Mr. Chairman.

Mr. O'Connor, have you received a copy also of the scope of the testimony of your client, Mr. Kalmbach?

Mr. O'CONNOR. I have.

Mr. JENNER. Thank you.

Mr. Kalmbach, where do you reside?

Mr. KALMBACH. My home is Newport Beach, Calif.

Mr. JENNER. And how long have you resided there?

Mr. KALMBACH. Since 1955.

Mr. JENNER. And Mr. Kalmbach you be at ease and you just address the committee and you needn't turn to me in response to the questions. Would you tell the committee please your education? Omit the grammar school.

Mr. KALMBACH. All right. I have a degree, bachelor of science degree from the University of Southern California, as well as a doctor of jurisprudence degree, Southern California.

Mr. JENNER. And could you tell us when you received those degrees? Excuse me, I interrupted you.

Mr. KALMBACH. The bachelor of science degree I received in 1949, and my juris doctor degree in 1951.

Mr. JENNER. What is your age, Mr. Kalmbach?

Mr. KALMBACH. My age is 52.

Mr. JENNER. And when did you begin—you are a practicing lawyer?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Admitted to the bar of California?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When were you admitted to the bar of California?

Mr. KALMBACH. 1952.

Mr. JENNER. What is the name of your present firm, if there is one?

Mr. KALMBACH. The firm name at the present is DeMarco, Barger, Beral & Pierno. I resigned from the firm in February of this year.

Mr. JENNER. And prior to that time the name of the firm was what?

Mr. KALMBACH. Kalmbach, DeMarco, Knapp & Chillingworth.

Mr. JENNER. When was that firm formed?

Mr. KALMBACH. 1967.

Mr. JENNER. And did that firm have more than one office?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And tell us how many and where they were located.

Mr. KALMBACH. The firm had two offices, one in Los Angeles and another in Newport Beach, Calif.

Mr. JENNER. And were you the resident partner in the office in Newport Beach?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us the distance between Newport Beach and Los Angeles, please.

Mr. KALMBACH. Approximately 45 miles.

Mr. JENNER. And the distance between Newport Beach and San Clemente. If you can state it in terms of how long it takes to drive?

Mr. KALMBACH. Approximately 45 minutes, 30 minutes, 45 minutes.

Mr. JENNER. Thank you. Mr. Kalmbach, you became engaged in the course of your professional and private career, involved in politics and political campaigns and matters of that character related thereto, did you?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right, tell us the history of that, please.

Mr. KALMBACH. Through the 1950's I wasn't particularly involved in politics other than having an interest. In 1960, I was involved more on the local level with some national responsibilities but within the Los Angeles County area. In 1962, I was involved in, to quite a degree, in the President's gubernatorial campaign in 1962.

Mr. JENNER. Did that activity on your part extend beyond the State of California?

Mr. KALMBACH. It did not.

Mr. JENNER. And at that time did you become acquainted with President Nixon, now President Nixon?

Mr. KALMBACH. I became acquainted with President Nixon, I think I first met him in the 1950's and I remember that I met him in the fall of 1961 before I became involved in the 1962 campaign.

Mr. JENNER. I see. And would you develop for us, please, not extensively, your acquaintance with the President from that point forward?

I think you said 1961.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right.

Mr. KALMBACH. In 1962, I was active in, as I say, in the President's gubernatorial campaign and then there are many friends that I had that were active also in behalf of the President in that campaign.

I was active in the 1968 campaign as the associate finance chairman of the Presidential campaign of 1968, and then for the period from February 15, 1972, until April 7, 1972, I was associate finance chairman of the 1972 campaign.

Mr. JENNER. As to the 1972 campaign, did you hold an office of any character or a position, may I put it that way, either in the finance committee or in the Committee To Re-Elect the President?

Mr. KALMBACH. Mr. Jenner, the only office that I held was, as I say, from February 15, 1972, until April 7, 1972, I was associate finance chairman of the campaign. Otherwise I held no office.

Mr. JENNER. I am seeking from you, Mr. Kalmbach, when you say associate finance chairman of the campaign as to whether it was associate chairman of the Finance Committee To Re-Elect the President or whether it was an office or a position, as the case may be, use your own words, of the Campaign Committee To Re-Elect the President?

Mr. KALMBACH. Well, Mr. Jenner. I always regarded it as holding an office in the finance area of the 1972 campaign and not on the political side.

Mr. JENNER. Now, when you say not on the political side, you mean not the Committee To Re-Elect the President?

Mr. KALMBACH. Not on the campaign side, on the—not the Committee To Re-Elect, yes, sir.

Mr. JENNER. Now, on your political activity, have you now generally described, progressed, from the late let us say, the late 1950's into and through 1972? And to the extent you have indicated it to us, did your acquaintance with President Nixon enlarge as well?

Mr. KALMBACH. Yes, it did.

Mr. JENNER. And did that become a personal relationship in due course?

Mr. KALMBACH. Yes, it did.

Mr. JENNER. Were you at any time personal counsel to the President?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Would you relate to the committee how that arose, and the nature and the extent of your personal relationship to and with the President?

Mr. KALMBACH. Mr. Jenner, that arose in March, as I remember it, March of 1969, when my logs tell me that I was in Washington, I think on March 16, and met with Mr. Haldeman, at that time, and Mr. Haldeman then advised me that the President wished me to represent him in the acquisition of property in San Clemente, Calif. as his personal attorney, wished our firm to represent him.

Mr. JENNER. Now, you have mentioned Mr. Haldeman. Would you please relate to the committee your acquaintance with him, when it commenced and the extension, if it did, escalate as the years went on?

Mr. KALMBACH. My first memory of Mr. Haldeman I think was in 1961 or 1962, certainly in 1962, and it is possible that I could have met him before that. But, that's my first recollection of having met him, and I worked quite closely with him in the 1962 gubernatorial campaign. Thereafter I saw him casually and socially very infrequently up until I think it was the 1968 campaign.

And then during that campaign I became much better acquainted with him. I knew his wife, of course, and knew his parents.

Mr. JENNER. In the gubernatorial campaign, Mr. Kalmbach, what function or position did Mr. Haldeman hold?

Mr. KALMBACH. His title was campaign manager.

Mr. JENNER. And he was the general manager of that campaign?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And during the course of that campaign, you became, you worked under or through or with him?

Mr. KALMBACH. Under and through him, yes, sir.

Mr. JENNER. And now, since you have mentioned your personal representation of the President, would you relate to the committee what you did in the functions you performed, give the dates, in representing the President personally as his counsel?

Mr. KALMBACH. As I say, beginning in mid-March of 1969 I was or the firm was engaged to represent the President in the acquisition of the San Clemente property. I performed the function, through that acquisition period, of negotiating the purchase of the property. And my partner, Frank DeMarco Jr., was responsible for the documentation involved. Also within a short time, into April, it is my recollection that we were also asked to do preliminary work looking towards the formation of the Richard Nixon Foundation. Now, at a time during this period in oh, into June, July, and August, it became clear that we would be representing the President in his personal tax work.

Those three areas, Mr. Jenner, were the primary areas that we were involved in.

Mr. JENNER. And thereafter did you perform professional services for the President in those three areas?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And when I use the pronoun you, and at the moment I am speaking as I understand you are using it, your firm?

Mr. KALMBACH. That is correct.

Mr. JENNER. As well as you personally?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Are you a tax lawyer, Mr. Kalmbach?

Mr. KALMBACH. I am not.

Mr. JENNER. Do you purport to know anything particularly about Federal income taxes?

Mr. KALMBACH. No, sir. I do not hold myself as an expert in tax law.

Mr. JENNER. Is one of your partners a tax expert?

Mr. KALMBACH. Frank DeMarco has been more in the tax area certainly I believe than I have been and was in fact the one who handled the President's tax work within the firm.

He also was the partner who was responsible for the work involving the Richard Nixon Foundation.

Mr. JENNER. John Ehrlichman has been mentioned many times in these proceedings. Are you acquainted with him?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When did you first become acquainted with him?

Mr. KALMBACH. Again, Mr. Jenner, I think much like with Mr. Haldeman I first became acquainted with Mr. Ehrlichman in 1962. I might have met him earlier, but my best recollection is I met him in the 1962 campaign.

Mr. JENNER. And did you work with him in that gubernatorial campaign?

Mr. KALMBACH. I didn't work with him closely at all but I met him in the campaign. His duties were in areas in which I was not involved, but I do have a recollection of meeting him at that time.

Mr. JENNER. Did that acquaintance broaden following the 1962 campaign?

Mr. KALMBACH. It did but not in the same way or——

Mr. JENNER. Well, tell us how it developed and the degree and the extent please.

Mr. KALMBACH. I met him, I am not certain how often, between 1962 and 1968. I am not certain I met him at all, but in 1968 I know that I saw him infrequently in the 1968 campaign. And our friendship really began, and I became a good friend of John Ehrlichman's beginning in 1969.

Mr. JENNER. By the way, Mr. Kalmbach, in your representation of the President of the United States, Mr. Nixon, did either you or your firm ever receive a fee or request a fee?

Mr. KALMBACH. No, sir.

Mr. JENNER. For the legal services performed?

Mr. KALMBACH. No, sir.

Mr. JENNER. Was there any discussion with anybody with respect to whether you would or would not receive a fee?

Mr. KALMBACH. I think at the outset there was some discussion. I am not——

Mr. JENNER. With whom?

Mr. KALMBACH. With Mr. Ehrlichman, and, Mr. Jenner, I don't recall ever discussing the question of a fee with the President. But, I do have a recollection of discussing the fee with Mr. Ehrlichman.

But, the eventual decision, which was the decision of the law firm, is that we would not charge the President for legal services. We did, we did charge them for certain costs, but not for legal services.

Mr. JENNER. Was that decision of the firm communicated to Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Are you acquainted with John Mitchell?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When did you first become acquainted with him?

Mr. KALMBACH. In 1968.

Mr. JENNER. And in connection with your activities in the 1968 campaign?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And tell us in a few words, the nature of that acquaintance and your relationship or association with Mr. Mitchell during that campaign?

Mr. KALMBACH. I became acquainted with Mr. Mitchell in a very casual way. As Associate Finance Chairman I had occasion to meet with him in various committee meetings during the campaign and I think that in totality that I probably didn't meet with him more than 10 to 15 times during the entire campaign.

But, that was the genesis of our acquaintanceship.

Mr. JENNER. And did that acquaintanceship enlarge in connection with and preceding and during the 1972 campaign?

Mr. KALMBACH. Yes, sir, it did.

Mr. JENNER. Would you relate to the committee in general terms the nature of that expansion of your relationship?

Mr. KALMBACH. Beginning with the 1968 campaign and through the ensuing years up to the 1972 campaign I had occasion to see John Mitchell from time to time and we became better friends through that period.

Mr. JENNER. Well, then, in the 1972 campaign, you had more direct relationship with him than theretofore, is that not correct?

Mr. KALMBACH. Mr. Jenner, in 1972 I, of course, left the campaign officially on April 7, 1972, but preliminary to that time I did meet with him more frequently than I had therebefore.

Mr. JENNER. When I use the 1972 campaign I really am thinking of the year before and the preparation for the campaign.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. As well as 1972. So that commencing in along 1969, 1970, and 1971 your relationship and acquaintance with Mr. Mitchell enlarged, is that correct?

Mr. KALMBACH. That is correct.

Mr. JENNER. And that acquaintanceship and relationship was in connection with or related to either your representation of the President or more particularly as I understand it, with respect to the forthcoming campaign to reelect President Nixon. Is that a fair statement?

Mr. KALMBACH. That is correct. But certainly more pertaining to the latter part of your statement.

Mr. JENNER. The campaign itself?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. Did you at some time become acquainted with John Dean?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And tell us when that first was and then relate to us that the extension of that acquaintance if it did extend.

Mr. KALMBACH. My best memory, Mr. Jenner, is that I first met John Dean in the middle of 1970 at the time that he became counsel to the President succeeding Mr. Ehrlichman, and in that position I began dealing with Mr. Dean much as I had been dealing with Mr. Ehrlichman. And that is that I, on matters relative to the President's legal work, both Mr. DeMarco and I regarded Mr. Dean and Mr. Ehrlichman as the alter egos of the President, as it pertained to the President's personal legal work.

Mr. JENNER. Now, I will be asking you some other relationships of yours with Mr. Dean as we move along.

Now, one other name, Mr. Charles, sometimes known as Bebe Rebozo, did you become acquainted with him?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And tell us when that acquaintance first arose?

Mr. KALMBACH. My memory is that I first met Mr. Rebozo in 1968, but I don't think that I met him more than just once or twice, and following a 1968 campaign I saw him more frequently through the following, ensuing years.

Mr. JENNER. Did you have any relationships with Mr. Rebozo, did they extend to, relate to your services to the President, legal services, to the President?

Mr. KALMBACH. Yes, sir, they did.

Mr. JENNER. And to the San Clemente residence or White House in due course?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right.

Mr. CHAIRMAN. Members of the committee, Mr. St. Clair, I will proceed to Mr. Kalmbach's participation in and relation to the matter of the Watergate payments. Oh, by the way, before I do that, Mr. Kalmbach, did your relationships with Mr. Ehrlichman encompass at one time your advancing money to him?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us about that, please. Give the time and dates, if you are able to do so.

Mr. KALMBACH. Yes, sir.

On or about May 5, 1972, when I was in Washington I met with Mr. Ehrlichman and he indicated at that time that he was in need of a loan, in need of funds and I offered to loan him \$20,000 and he accepted that offer. He asked that I send the funds to him in a confidential manner and I think that I, my memory is that I suggested that I could purchase a cashier's check and send it to Mr. Ehrlichman and send him that money in that form. And he said that would be acceptable, and he had asked that it be treated in a confidential manner. Then he indicated further that he would prepare a note evidencing the loan and I went back to California, withdrew \$20,000 of my own funds, purchased a cashier's check drawn in Mr. Ehrlichman's favor and sent it to him.

He then sent me a note and I think the note was dated May 16, 1972, in which he recited the \$20,000 amount and the interest rate was zero interest.

Mr. JENNER. Had you had any discussion with him as to interest rate?

Mr. KALMBACH. I did not. No, sir.

Mr. JENNER. Go ahead, please.

Mr. KALMBACH. And he provided that the note was to mature on any one of three events.

Mr. JENNER. Name them, please.

Mr. KALMBACH. One was his death, two within 1 year after he left the Government or three, January 20, 1977, as I can best recall.

Mr. JENNER. Was that loan repaid?

Mr. KALMBACH. Yes, sir, it was.

Mr. JENNER. When?

Mr. KALMBACH. I think it was repaid in May of this year.

Mr. JENNER. Did you request repayment?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Now, Mr. Chairman, ladies and gentlemen of the committee, in dealing with Mr. Kalmbach's participation in the payments to defendants, Mr. Bittman and what not, inasmuch as there has been a great deal of testimony in this respect, and that the books that have been furnished to the committee, and in connection with the statements of information, it is my plan not to go into detail unless a member of the committee or you, Mr. Chairman, desire me to do so. So, we will move along, and I have in mind the time pressures that are involved.

The CHAIRMAN. Please proceed in that manner.

Mr. JENNER. I wish the committee should know that in case I should suddenly jump to a later period.

Mr. Kalmbach, I will first ask you a general question. Did you become involved in a matter of making payments to the defendants accused of breaking in the DNC headquarters on June 17, 1972?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, directing your attention to—well, I will ask you this: The fact of the break-in came to your attention shortly after it occurred by way of the press or some other means. Would you please tell us how it came to your attention?

Mr. KALMBACH. As I remember it, Mr. Jenner, it came to my attention first by way of the press and the radio and television on Saturday June 17, 1972.

Mr. JENNER. And subsequently, as the days went on, you observed or read various press releases and news accounts with respect to that subject matter, correct?

Mr. KALMBACH. That is correct.

Mr. JENNER. All right. Now, I wish to draw your attention to June 28, 1972. Did you receive a telephone call from Mr. Dean?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, how had your acquaintance, what was the status of your acquaintance with Mr. Dean as of that time; that is the fullness or less than fullness of it up to that moment?

Mr. KALMBACH. I had been dealing constantly with Mr. Dean for the prior 2 years. Let's see, from mid-1970 up to that day more or less constantly, in handling various matters for the President involving his own personal legal work and certain other matters that were involved.

Mr. JENNER. Would you, for the benefit of the committee, please indicate in a general way, without great or with no particular specification, what is embraced in your statement, "other matters?"

Mr. KALMBACH. Mr. Jenner, we, Mr. DeMarco and I, were dealing through Mr. Dean in matters involving the Richard Nixon Foundation. I recall that early in, perhaps, and quite a little bit in 1971, and certainly at the turn of the year of 1971, 1972, dealing with Mr. Dean quite often in matters involving campaign finance, and finance law, matters such as that.

Mr. JENNER. I see. Had you come to have a confidence in Mr. Dean?

Mr. KALMBACH. Yes, sir, a trust and confidence.

Mr. JENNER. Had anything occurred up to June 28 that would lead you to have lost or questioned your confidence in Mr. Dean?

Mr. KALMBACH. No, sir.

Mr. JENNER. And your confidence in him as a competent or an honorable member of the bar?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And his work for President Nixon as a part of and a member of the White House staff?

Mr. KALMBACH. Yes, sir, a very key member of the White House staff.

Mr. JENNER. All right. Turning back again to June 28, 1972, you received a telephone call from him?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. You were in California?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. What did he ask you to do, if anything?

Mr. KALMBACH. The gist of that conversation, Mr. Jenner, was that he indicated that they, we have a very important assignment, and it is urgent that you return to Washington, or come back to Washington at the very first opportunity, and I think he said the first available plane.

Mr. JENNER. And did you return to Washington?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When?

Mr. KALMBACH. That night I caught an airplane, I think at 10 or 10:30 that evening.

Mr. JENNER. Did you speak with or did you have an occasion to speak with Mr. Dean or he with you that following day which was June 29, 1972?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Well, possibly helpful to the committee, June 29, 1972, was a Thursday.

What were the circumstances, how did that meeting come about, and where was it?

Mr. KALMBACH. When I arrived in Washington, which was early in the morning, 6 or 6:30, I took a cab in and checked into the Statler Hilton Hotel. And by the time I had changed and gotten a bite to eat, it was approximately 9 o'clock. And it is then my recollection that I called Mr. Dean at his office in the Executive Office Building and told him that I was in town and could I come right over to see him.

Mr. JENNER. What did he say?

Mr. KALMBACH. He said no, he said it's a nice day, Herb, you are at the Statler Hilton Hotel, I am at my office here in the Executive Office Building, why don't we both start walking and will meet out in front of the Hay Adams, the church in front of the Hay Adams Hotel.

Mr. JENNER. That's across the street, is it not?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Go ahead please.

Mr. KALMBACH. I then left my room and walked over and stood in front of this, in front of the church across from the Hay Adams Hotel,

and this was about 9:30 in the morning. Eventually I saw Mr. Dean walking up through Lafayette Park towards the church. The light was with me. I crossed over and met him in the park and suggested that we go over to the Hay Adams and have some coffee. He said no, let's just walk in the park, Herb, so that was—we did that.

Mr. JENNER. What ensued after that?

Mr. KALMBACH. Well, we walked towards the center of the park and I remember, as I have testified before, that he put his foot up on the bench and made very expansive gestures, and indicated to me that perhaps I should do likewise.

Mr. JENNER. Did he say that rather than indicate?

Mr. KALMBACH. He said that.

Mr. JENNER. All right.

Mr. KALMBACH. And he said this—I didn't really understand what he was saying. Then he proceeded to say that we would like you to raise funds and I think he said the sum was \$50,000 to \$100,000 to provide for family support and for attorneys fees for the Watergate defendants. He used words to the effect that we have got to help the fellows and that was certainly what the understanding I had from that conversation.

Mr. JENNER. Is that what you recall he said, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir, That is my best recollection.

Mr. JENNER. All right.

Mr. KALMBACH. I then indicated to him that and stated to him that I thought that perhaps we could form a defense fund, a public defense fund, and that in the interim that perhaps these people could, through mortgaging their homes and the like, raise funds that would stand them in stead until such time as the defense fund became operative. And he stated that there was no time for that and said that it was necessary that we proceed immediately to the raising of these funds.

He stressed that these funds would, must be, they must be absolutely secret.

Mr. JENNER. The funds or the——

Mr. KALMBACH. The method of raising the funds and a disbursement of the funds through to the defendants must be absolutely, must be done in absolute secrecy. He stressed that very heavily. And I just simply at that point, I just said well I will agree to take on this assignment. And I said now, John, shall I give the funds to you or what should I do after I raise these funds. And he said no, don't give them to me. And I recall that he had said that Mr. LaRue would be, would be involved as someone from whom I would be receiving directions. And I said should I give the funds to Fred LaRue and he said no. And I was a little nonplussed at that because I wasn't acquainted with these people, wasn't even certain of their names, and he then suggested Mr. Ulasewicz name as the person to distribute the funds, and inasmuch as I had known Mr. Ulasewicz from mid-1969 although not well but I knew that he had the trust and confidence of senior people in the White House I accepted that, and I thought it was a good idea. And I was willing to give whatever funds I raised to Mr. Ulasewicz.

Mr. JENNER. When you use the expression senior people in the White House, what persons in the White House are you including?

Mr. KALMBACH. Well, particularly, Mr. Jenner, Mr. Ehrlichman and Mr. Haldeman.

Mr. JENNER. And what led you to say that, your confidence in Mr. Ulasewicz?

Mr. KALMBACH. Well, I had been directed in mid-1969 by Mr. Ehrlichman and also my recollection is that it was also with the concurrence of Mr. Haldeman to begin paying compensation to Mr. Ulasewicz for what I understood to be investigative work and so I naturally felt that as long as these two very senior staff people had confidence in this man and did in fact, continue to, I did continue to disburse to him over a period of years, then certainly I should have and did have the confidence that he would be someone in whom I could transfer funds for the ultimate distribution.

Mr. JENNER. Now, you have mentioned Mr. LaRue. Was the name familiar to you when it was mentioned to you by Mr. Dean?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. That's Fred LaRue?

Mr. KALMBACH. That is correct.

Mr. JENNER. And would you state in short compass what your acquaintance with Mr. LaRue was or had been, how it arose, and to a limited extent its nature.

Mr. KALMBACH. It was a very casual acquaintanceship and I think I first met him in 1968. But the totality of my acquaintanceship with this man was very infrequent meetings. I knew that he was well acquainted particularly with Mr. Mitchell and that was about the extent of it.

Mr. JENNER. Were you aware at that time he was performing some function in connection with the campaign to reelect President Nixon?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, what did you understand in that respect?

Mr. KALMBACH. I understood that at that time he was and had been operating more as an aid or general assistant to Mr. Mitchell who was the campaign chairman at that time.

Mr. JENNER. All right, now, have you now related to the committee your best recollection of what occurred in Lafayette Park?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Then what did you do?

Mr. KALMBACH. Well, I returned to my room at the Statler Hilton Hotel, and I probably was back there at oh, between 10:15 or 10:30 or thereabouts. And I called Mr. Stans.

Mr. JENNER. Proceed.

Mr. KALMBACH. In talking to Mr. Stans, who was a friend of mine and who, of course, at that time was finance chairman of the campaign, I told him that words to this effect, I said, Maury, I have been just asked to take on a special assignment for the White House. It is a very important assignment where I need as much cash as you have on hand. And I think I indicated \$50,000 to \$100,000. And I said I am staying here at the Statler Hilton and he in response he said well, this is, you know I will do what I can do and I will—I will go, I think to the safe deposit box and I will come over and he asked me for my room number and I gave it to him. And he said I will be over there around noon. And that was, Mr. Jenner, my best recollection of that conversation.

Mr. JENNER. Thank you, sir. Would you apprise the committee, you said you were acquainted with Mr. Stans, would you indicate in the same short compass you have been using your acquaintance with him, when it arose and its character and extent?

Mr. KALMBACH. Yes, sir. I first met Mr. Stans in the 1962 gubernatorial campaign when he was the finance chairman for that campaign. We became personal friends, and I met him socially off and on over the years dating from 1962 until 1967 at which time I actually agreed to become active in the finance area for the upcoming 1968 campaign. Mr. Stans became finance chairman of that campaign. I agreed to act as his associate finance chairman and dealt closely with him through the 1968 campaign. We had a close social contact from 1969 on until in 1972 on February 15 he became chairman again for the 1972 campaign. And after repeated urging by Mr. Stans, I eventually agreed to act as his associate chairman once again for the period only from February 15 to April 7, 1972.

Mr. JENNER. Now, you then thought well of Mr. Stans?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And you still do?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, I think you had reached the point at which Mr. Stans, you were relating your conversation with Mr. Stans. What occurred thereafter that day in relation to this particular matter?

Mr. KALMBACH. Well, Mr. Stans, after that telephone conversation, it is my memory, Mr. Jenner that Mr. Stans came to my room either shortly before noon or shortly after noon on the 29th. And when he came into the room he had with him the cash and it was \$75,000, \$75,100. I told him that, repeated what I had said a bit more expansively, repeated what I had said on the telephone, naturally, that this is an assignment that I had received from someone in authority at the White House; it is an important assignment, but that I have been pledged to treat it in utmost confidence and I could not reveal the nature of the assignment and that he would have to trust me. And Mr. Stans said Herb, of course I trust you. And that was about the extent of that conversation. I think that he did indicate that of that \$75,000 some \$45,000 of it represented a repayment or actually \$45,000 of it was the balance of \$50,000 which I had advanced to him in early February which he was to hold for future expenses.

But, he had expended only \$5,000 and \$45,000 of the \$75,100 was from that source.

Mr. JENNER. Mr. Kalmbach, I don't want a wrong impression created here. You said you had advanced \$50,000 to Mr. Stans. That was not a personal advance; was it?

Mr. KALMBACH. No, sir.

Mr. JENNER. All right. Tell us what it was please?

Mr. KALMBACH. These were funds, Mr. Jenner, that I obtained from Mr. Sloan, who was at that time the staff head of the finance arm of the campaign and I obtained these funds from Mr. Sloan and in turn gave them to Mr. Stans.

Mr. JENNER. And you had received them from Mr. Sloan for what purpose?

Mr. KALMBACH. For the purpose of giving them to Mr. Stans as an advance for his 1972 expenses.

Mr. JENNER. All right. By the way, Mr. Kalmbach, beyond your conversation with Mr. Dean did you make any, did you check with anyone, Mr. Ehrlichman, Mr. Haldeman, or anyone else with respect to this secret assignment, was it to be kept secret?

Mr. KALMBACH. Mr. Jenner, I checked with absolutely no one.

Mr. JENNER. And why not, Mr. Kalmbach?

Mr. KALMBACH. Because of the absolute trust in this man and the belief that this was for the family support and for attorneys' fees and it was something that I felt in my own mind, it was a moral obligation that had been felt on the part of someone in authority and in my own view most likely the senior person in the campaign, namely, Mr. Mitchell, and I was being asked to do this to help these people. And it didn't cross my mind at all that this could be in any way at all improper. And Mr. Dean asked me to do this and after I accepted the assignment I went back to the hotel and immediately called Mr. Stans. I did not check with anyone.

Mr. JENNER. Did you advise any one of your partners of this assignment or Mrs. Kalmbach?

Mr. KALMBACH. No, sir.

Mr. JENNER. Then following your receipt of the funds from Mr. Stans, you had how much, if I may use the expression, on hand?

Mr. KALMBACH. I had \$75,000. He represented that it was \$75,000 and I counted it and it was \$75,100.

Mr. JENNER. And in general, at least, in what form were these bills?

Mr. KALMBACH. In \$100 bills.

Mr. JENNER. And did there come an occasion when you began to perform this assignment?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us what the first occasion was, please. And when?

Mr. KALMBACH. Mr. Jenner, when I talked to Mr. Dean in the park and after he had suggested that perhaps I could use Mr. Ulasewicz as the distributor of these funds, I did not have Mr. Ulasewicz' number and I knew that Mr. Caulfield, a friend of Mr. Dean's, would probably have that number, so I requested Mr. Dean to get in touch with Mr. Caulfield and have Mr. Caulfield call me with the number and I in turn would then call Mr. Ulasewicz. That is in fact what happened. Mr. Caulfield, as I remember it, called me in the afternoon of the 29th—that is Thursday afternoon—gave me Mr. Ulasewicz's telephone number in New York. I called Mr. Ulasewicz and asked him to come down to Washington the next day and to see me at the Statler-Hilton Hotel and take on an important assignment.

Mr. JENNER. All right.

Moving now to the next day, which was June 30, 1972, that was a Friday. Did you have another conversation with Mr. Dean on that day?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Tell us of that conversation, please.

Mr. KALMBACH. I had a conversation—

Mr. JENNER. Did you call or did he call you?

Mr. KALMBACH. No, as I remember, I called him and asked him to meet with me. We met in my room at the Statler-Hilton, I think about 9 o'clock. At that time, I told him I had raised the funds and would

meet with Mr. Ulasewicz later that day and would give these funds to Mr. Ulasewicz. I don't know if Mr. Dean at that breakfast meeting or at that meeting in my room gave me any directions to give to Mr. Ulasewicz. I don't remember that.

Mr. JENNER. Following that meeting, did you meet with Mr. Ulasewicz?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Relate that, please.

Mr. KALMBACH. I believe it was in the early afternoon of Friday, the 30th. Mr. Ulasewicz came to my room at the Statler-Hilton and I told him essentially what Mr. Dean had told me, namely, that this assignment was, of course, a very important assignment, that it demanded the absolute secrecy, that these funds were to be distributed to provide for the family support and for the attorneys of these Watergate defendants.

I told him that I would be giving him instructions and that he would carry out the instructions precisely. And again, I want to stress that I told him it should be in absolute secrecy.

I think that he came, rejoined and said, "You mean a covert operation?"

I understood him to mean absolute confidentiality, and I said, "Well, whatever it is, it has to be in absolute secrecy." And he understood.

And I said, "I will be in touch with you as soon as I have any directions to relay to you, Tony." And he understood.

I remember that when he came in the room, he didn't have anything with him and I went to the closet of the hotel room and took a laundry bag—

Mr. JENNER. That is a paper bag?

Mr. KALMBACH. Yes, sir, and wrapped the \$75,100 in that paper, laundry paper bag, and left the room. And I recall that either at this time or at a later time, he told me that as far as the manner in which he was to effect these distributions, it was something that he would prefer I didn't know anything about, but he would take care of.

Mr. JENNER. Without giving any detail, did you discuss also with Mr. Ulasewicz on that occasion procedures that would be followed in connection with his disposition of this \$75,100?

Mr. KALMBACH. I am not certain, Mr. Jenner, if I did. I do recall this in recounting this conversation. I think I told Mr. Ulasewicz that it was funds of \$50,000 to \$100,000 and here was \$75,000 for this assignment.

Now, as far as the procedures which ultimately became the telephone booth and back and forth, I am not certain if we talked about that then or subsequently on the telephone. I think we probably did talk about it at that time.

Mr. JENNER. All right.

Those procedures have been related to the committee by several witnesses and the committee has statements and evidence with respect thereto. But would you just tell us generally what that procedure was that you determined upon that day?

Well, did you determine on the—I will ask you this: Did you determine on that procedure with Mr. Dean or Mr. LaRue or just how did that procedure, the determination of it occur?

Mr. KALMBACH. Between myself and Mr. Ulasewicz?

Mr. JENNER. Well, if you had discussion with Mr. Dean or Mr. LaRue in that respect, relate that to the committee also, please.

Mr. KALMBACH. I may have met with Mr. LaRue on the 30th, Mr. Jenner. I am just not certain of that. As I said earlier, I think that Mr. Dean indicated that I would be receiving directions from Mr. LaRue, but I don't recall that there was any direction as to the specific manner in which the confidentiality was to be preserved. It is my memory that this is something that Mr. Ulasewicz and I worked out together in our, not only in our conversation on the 30th, but in subsequent telephone conversations.

Mr. JENNER. Just give us the essentials of that.

Mr. KALMBACH. The essentials involved to provide for certainty against phone taps that I would call Mr. Ulasewicz at his home in New York. He gave me the telephone number of a pay phone near his home and then with the understanding that after I talked to him, within 15 minutes, I was to call him again at that pay phone and he would be there at that time.

I, in fact, would be calling from a pay phone.

I would then, when we were talking pay phone to pay phone, I would then give him the directions that I would receive from either Mr. Dean or from Mr. LaRue as to distribution of these funds to whomsoever.

Mr. JENNER. After you had given Mr. Ulasewicz a direction with respect to the delivery of funds, was there a checking back between you as to the effecting of the delivery?

Mr. KALMBACH. Yes, sir, constant.

Mr. JENNER. And tell us in a few words the substance of that, that procedure.

Mr. KALMBACH. Well, the procedure, Mr. Jenner, was always that I would get a direction or directions from either Mr. Dean or Mr. LaRue. I would then call Mr. Ulasewicz—

Mr. JENNER. I wasn't thinking of that. I think you have already testified, if you will excuse the interruption. I am talking about the check back—

Mr. KALMBACH. Yes, sir, I understand.

Mr. JENNER. All right.

Mr. KALMBACH. Mr. Ulasewicz would then call and I would then—he would call my home, if I remember it, and I would then go to a pay phone and call him back. He would then report—

Mr. JENNER. You had called him back at the pay phone number that you have mentioned?

Mr. KALMBACH. Yes, sir. And he would then report whatever had occurred in carrying out the directions that I had given him, that I in turn had received from either Mr. Dean or Mr. LaRue. I'd receive that information that either the distribution had been effected or this information had been given by whomsoever. I would then, in turn, call Mr. Dean or Mr. LaRue and relay that and then they in turn, after a day or so, would call me back and I was just a conduit up and down.

Mr. JENNER. You have mentioned that you would report in turn to Mr. Dean or Mr. LaRue. There were occasions when problems arose with respect to delivery of funds, is that correct?

Mr. KALMBACH. That is correct.

Mr. JENNER. The committee has heard about that. When you reported that back, either to Mr. Dean or Mr. LaRue, and you needed a decision—by the way, you didn't decide these things yourself, did you?

Mr. KALMBACH. No, sir.

Mr. JENNER. On all problems that arose before you took any action whatsoever, what did you do, Mr. Kalmbach?

Mr. KALMBACH. I would always call either Mr. Dean or Mr. LaRue for directions.

Mr. JENNER. And were those responses forthcoming promptly?

Mr. KALMBACH. Not immediately. There was always a lag and I never knew to whom they were talking, but within a day or so, they would call me back.

Mr. JENNER. But it usually was a day or so?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, I wish to ask you about only one incident, Mr. Kalmbach, as we are pressed for time. The incident I will ask you about is the delivery of funds, I believe \$25,000, to Mr. Bittman. Do you recall that occasion, that event?

Mr. KALMBACH. I do.

Mr. JENNER. Would you tell the committee about it, fixing it as to time and persons involved in the course of the event?

Mr. KALMBACH. This was after payment had been refused by Mr. Caddy and Mr. O'Brien and I was directed to instruct Mr. Ulasewicz to call Mr. Bittman, and there were several conversations back and forth between Mr. Ulasewicz and Mr. Bittman.

Mr. Ulasewicz would call me, I would call John Dean or Fred LaRue. They would call me back and it was just that way, it was back and forth constantly, until eventually, Mr. Ulasewicz did in fact effect a delivery of \$25,000 to Mr. Bittman.

Now it is my memory, Mr. Jenner, that there were some calls indicating that money was to be returned to Mr. Ulasewicz, but there was a night box or something that the money had been put in and there was some problem. Eventually, I got the direction from Mr. Dean or Mr. LaRue that there was no problem, that Mr. Bittman had received the funds.

Mr. JENNER. Was this delivery effect, perhaps, if I may refresh your recollection, on Friday, July 7?

Mr. KALMBACH. Approximately that date. I can't be certain, but that would be about that time, the end of the first week of July.

Mr. JENNER. Now, there has been some reference to code names used. Would you just tell us about that, also in a few words?

Mr. KALMBACH. Yes, sir. I recall that Mr. Ulasewicz had a code name of Mr. Rivers, and I relayed that code name to Mr. Dean or Mr. LaRue, who in turn relayed it to, in what manner I am not certain, but it was apparent that when Mr. Ulasewicz called Mr. Bittman, that the name, he recognized the name and he took the call under that name.

Mr. JENNER. Mr. LaRue, I wish to direct your attention now—committee members in the course of—did I call him LaRue? I am sorry.

Forgive me, Mr. Kalmbach. I apologize, Mr. Chairman.

An occasion in July when there was an accounting made by you of the \$75,100 you had received?

MR. KALMBACH. Sir?

MR. JENNER. Do you recall an occasion in July, oh, mid-July or shortly after, when you made an accounting with respect to the \$75,100 you had received?

MR. KALMBACH. I am not aware of an accounting, Mr. Jenner.

MR. JENNER. Was there a meeting in that connection?

MR. KALMBACH. There was a meeting, yes, sir.

MR. JENNER. Tell us about that, please?

MR. KALMBACH. There was a meeting on——

MR. JENNER. Excuse me, was it July 19, 1972?

MR. KALMBACH. Yes, sir, that was the date.

MR. JENNER. How did it come about?

MR. KALMBACH. My recollection is that Mr. Dean asked me to come to Washington and I met with Mr. Dean and with Mr. LaRue in Mr. Dean's office. Mr. LaRue at that time gave me \$40,000 to give to Mr. Ulasewicz. I was in Mr. Dean's office with these two men for a relatively short time. I am not certain whether or not I received any instructions to relay to Mr. Ulasewicz at the time of that meeting, but I do remember clearly that I was given \$40,000 by Mr.——

MR. JENNER. You were given \$40,000?

MR. KALMBACH. Yes, sir.

MR. JENNER. By whom?

MR. KALMBACH. By Mr. LaRue to be handed to Mr. Ulasewicz.

MR. JENNER. And at that meeting, did the occasion of your at least reporting on disposition of the \$75,100 arise?

MR. KALMBACH. I am certain that it did and I relayed what I recall up to that date as to what distributions had been made, but not in a sense of an accounting. I just reported what I had received and what had been expended and what was on hand by Mr. Ulasewicz.

MR. JENNER. Did you on that occasion inquire as to the source of the \$40,000?

MR. KALMBACH. No, sir.

MR. JENNER. Now, what was your state of mind at that time as to whether you were to continue to function in this furnishing money through Mr. Ulasewicz to the break-in defendants?

MR. KALMBACH. Mr. Jenner, through this July period, I was becoming more concerned. I don't know if—it had not elevated itself to the point of refusal, but I was becoming more concerned.

MR. JENNER. Concerned about what, Mr. Kalmbach?

MR. KALMBACH. Concerned about the press and this whole Watergate matter. And I had received—I recall that my initial, when I was talked to by Mr. Dean, he was talking about \$50,000 to \$100,000 as the assignment. So suddenly I received another \$40,000. It just heightened my concern and all of the secrecy procedures were distasteful to me. It was something that, as I say, my concern was building.

Of course, subsequent to the 19th, it grew to the point where I saw Mr. Ehrlichman.

MR. JENNER. Yes; we will get to that in a moment.

How much of the \$75,100 was on hand in Mr. Ulasewicz' possession at the time you received the \$40,000 from Mr. LaRue?

MR. KALMBACH. I am not certain, Mr. Jenner. I can't—I have quite a clear recollection of the receipt of the funds, but as to how much was paid out and at what times, I am not, my memory is not that good.

I, of course, recall the \$25,000 that had been given to Mr. Bittman. I think \$8,000 was given to Mr. Liddy and there were some funds given to Mrs. Hunt, I think before the 19th. But exactly what was on hand on the 19th, I don't have a precise memory.

Mr. JENNER. Would it help to refresh your recollection if you—if I suggested the amount on hand at that time was approximately \$10,000?

Mr. KALMBACH. Well, it—that is helpful to me. I just don't have a clear recollection of knowing precisely or remembering precisely what it was. But that is helpful to me.

Mr. JENNER. I don't mean to suggest to you, Mr. Kalmbach, that I have any clairvoyance in that respect. I am refreshing your recollection from my conference interviews of you.

Mr. KALMBACH. Yes, sir.

Mr. RANGEL. A point of clarification.

Has the witness testified of \$8,000 to Mr. Liddy?

Mr. JENNER. Would you respond to Congressman Rangel's inquiry and explain or tell us about the \$8,000?

Mr. KALMBACH. Yes, sir, Congressman.

I had been directed again by Mr. Dean and Mr. LaRue—and I use these people interchangeably. I think most of my directions came from Mr. Dean, but also Mr. LaRue did give me directions. But at one point in July, I was directed to have Mr. Ulasewicz disburse \$8,000 to Mr. Liddy, which Mr. Ulasewicz did.

Mr. RANGEL. Thank you.

Mr. JENNER. Yes, sir.

Mr. DANIELSON. Mr. Chairman, while we are on this, I think counsel is going to cover this, but the way my record notes are running, as some money is delivered to Mr. Kalmbach, it is passed on to someone else.

Are we going to have a structure, what passed through Mr. Kalmbach's hand in these funds?

Mr. JENNER. May I inquire, the \$40,000, sir? You are directing your attention to the \$40,000 delivered to him on July 19?

Mr. DANIELSON. As I see it, his coffers are emptied each time.

Mr. JENNER. Yes.

All right, you had on hand when you received the \$40,000 from Mr. LaRue \$10,000, approximately, in the possession of Mr. Ulasewicz and \$40,000 in your own possession. Correct?

Mr. KALMBACH. Yes, sir, and that was my, that would be my best recollection.

Mr. JENNER. Yes.

Now, was the \$40,000 also in \$100 bills?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And what disposition was made of the \$40,000? Tell us the course of events and the dates and times?

Mr. KALMBACH. My memory is clear on that, Mr. Jenner, that following that meeting in Mr. Dean's office—

Mr. JENNER. The same day?

Mr. KALMBACH. That same day, July 19. I flew to New York and stayed at the Regency Hotel in New York, and about 8:30 that evening Mr. Ulasewicz came to the hotel, came to my room.

Mr. JENNER. Had you contacted him in the meantime?

Mr. KALMBACH. Yes, sir, I had. And I gave him \$40,000 to hold subject to my directions.

Now, I am not certain at this time, Mr. Jenner, whether or not I gave him additional instructions at that time, but I did give him the \$40,000 that I had received from Mr. LaRue.

Mr. JENNER. Mr. Kalmbach, you cited that you flew to New York on this occasion, whereas on the other occasions, as you have related, you called Mr. Ulasewicz to come to Washington.

Could you explain to the committee or state to the committee why you, yourself, flew to New York rather than having Mr. Ulasewicz come down and pick up the \$40,000 in \$100 bills?

Mr. KALMBACH. No, sir, I can't, except that—and I don't have a clear recollection on that. But I must have had some other business to do in New York and it was just as convenient to take the \$40,000 to New York.

Mr. JENNER. All right. It was not a matter of urgency?

Mr. KALMBACH. Oh, no, sir.

Mr. JENNER. All right.

Now, in your meeting with Mr. Ulasewicz, did you and he have any conversation with respect to the concerns that you have stated the committee you were beginning to have along about this time?

Mr. KALMBACH. Yes, sir. Mr. Ulasewicz is a professional police officer. I trust in him. I believe him to be a fine person, but he gave me cautionary words during this period. And that led up, really, to—

Mr. JENNER. What did he say, Mr. Kalmbach?

Mr. KALMBACH. Well, it was that this—you know, he used the words "covert operation" and, it is better that you don't know how I am effecting the transfer of these funds. And all of this just heightened my concern, frankly.

Mr. JENNER. Was anything said—excuse me. Have you exhausted your recollection as to your conference with Mr. Ulasewicz and what was said on that occasion?

Mr. KALMBACH. Yes, sir.

I think, Mr. Jenner, that we did compare notes as to how much he had received, how much he had disbursed, and how much he had on hand?

Mr. JENNER. All right. Possibly refreshing your recollection, was anything said to Mr. Ulasewicz respecting escalation of Mrs. Hunt's demands?

Mr. KALMBACH. Well, I am not certain. He did inform me as to whatever it was that Mrs. Hunt had said to him about the need for funds and help for the defendants, their attorneys and family support. Whatever it was—I don't have a clear memory on this, Mr. Jenner. Whatever it was I relayed to Mr. Dean and/or Mr. LaRue.

Mr. JENNER. You say whatever it was, you did relate it to Mr. Dean or Mr. LaRue?

Mr. KALMBACH. Yes, sir, absolutely.

Mr. JENNER. OK. You returned to California then?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. That same day?

Mr. KALMBACH. Well, I think it was the next day because I was in New York that night, but probably on or about July 20. But I can't be certain without checking my calendar.

Mr. JENNER. By the way, Mr. Kalmbach, I assume, and correct me if I am wrong, that many of your calls from Mr. Ulasewicz, he in New York and you in Newport Beach, Calif., were when you were in Newport Beach?

Mr. KALMBACH. Yes, sir; that is correct.

Mr. JENNER. And you communicated both ways by pay phone.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And what did you do, carry a bag of quarters around with you?

Mr. KALMBACH. A lot of quarters.

Mr. JENNER. Now, you have mentioned your concern and that of Mr. Ulasewicz, or at least he cautioning you in that respect.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Did an occasion arise when you expressed those concerns to Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Do you recall the date of that?

Mr. KALMBACH. I do.

Mr. JENNER. Give the date, please.

Mr. KALMBACH. July 20, 1972.

Mr. JENNER. All right.

Now, tell us the genesis of it. Your concern arose, you did what, you met with Mr. Ehrlichman?

Mr. KALMBACH. This—the cautionary words, the secrecy, the press, the fact that the \$75,000 increased by \$40,000 going beyond the original \$50,000 to \$100,000 that John Dean had mentioned—that was sufficient so that between the 19th and the 26th, I resolved that I wanted to see John Ehrlichman, a man I had known for several years and felt great trust in. I wanted to be assured by this friend of mine that Mr. Dean had the authority, that this was a proper assignment that I was handling, and that I was to go forward on it. So I arranged an appointment with Mr. Ehrlichman, which was 3:30 in the afternoon, in his office in the west wing of the White House on July 26, 1972, and met him at that time.

Mr. JENNER. Now, before you go into that, in the interim also, before you entered Mr. Ehrlichman's office, had there been any request of you to raise additional funds?

Mr. KALMBACH. Yes, sir. The request had come from, again, Mr. Dean or Mr. LaRue, but it was always in my mind it was principally Mr. Dean.

Mr. JENNER. And would you tell the committee about that before we go into your meeting with Mr. Ehrlichman?

Mr. KALMBACH. Well, Mr. Dean would say that it was for that additional funds be raised for these people. Dean, it was inconsistent with my initial assignment; namely, that this was going to be an ongoing thing. It was the first time that I was going to be seeing a contributor, the very first time. All of this in the aggregate caused me to resolve in my own mind that I was going to see Mr. Ehrlichman and get this assurance.

Mr. JENNER. Now, you have said that you were to see a contributor. Did you have a particular contributor in mind at that moment?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And who was that?

Mr. KALMBACH. Mr. Thomas V. Jones.

Mr. JENNER. All right, we will get to that shortly.

Ms. HOLTZMAN. Mr. Chairman—

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Point of clarification.

Has the witness stated the date of this additional request from Mr. Dean?

Mr. JENNER. No; he hasn't, except that it occurred before the July 26 meeting with Mr. Ehrlichman.

Does your recollection serve you to respond to Congresswoman Holtzman's question?

Mr. KALMBACH. I am not certain on that. I think it was sometime between the 19th and that 26th meeting.

Mr. JENNER. All right.

Now, would you relate to the committee the meeting you had with Mr. Ehrlichman at his office at your request at 3:30 p.m.?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. July 26, 1972.

Mr. KALMBACH. Yes, sir.

I went into Mr. Ehrlichman's office. I was seated in the davenport here, on this corner, and he was across the coffee table in that chair, in the corner of his office. After some opening amenities or whatever other things, other matters that I would have to discuss, I indicated to John—

Mr. JENNER. Just tell us what you said rather than what you indicated.

Mr. KALMBACH. I said to Mr. Ehrlichman, I said, "John, you are acquainted with this assignment that I received from John Dean?"

He said, "Yes; I am."

There was no question in my mind that he knew what I was talking about, raising the funds for these defendants, their families, and for the attorneys' fees. And I told him that I was going to, had been asked to raise additional funds, that I was going to see Mr. Tom—Thomas V. Jones in California, which was the first contributor that I was going to approach. I told him that all the secrecy that I had been admonished to follow, how bothersome it was to me. I told him that these funds were being raised to provide for the families of these people and for their attorneys. And I recall that I said that I felt that it was a decent thing to do. And I recall Mr. Ehrlichman saying similar words—humanitarian, words of that type.

And I said to John, I said, "John"—and this is so very clear in my mind. I said, "John, I am looking you right in the eyes, You know Barbara in my family; I know Jean in your family. You know that my family and my reputation mean everything to me and it is just absolutely mandatory that you advise me that John Dean has this authority, that this operation I am involved in, this assignment I am involved in is proper and that I am to go forward."

And he said, "Yes, it is, Herb, and you are to go forward."

Then I recall he used the figure of speech when we were talking about all this secrecy. He said, "Now, Herb, they will have our heads in their laps," meaning that if we don't follow the secrecy, this could get into the press, be misinterpreted, and would jeopardize the campaign.

When I received that assurance from this man, who knows how much I value my reputation at home and my family, a man I regard as a friend of mine, a man to whom I had loaned money—I walked out of that office assured in my own mind that my concern was baseless, that it was just something that I should not be concerned about. And I walked out of the office free of that concern. It just dropped off of me.

MR. JENNER. And you left his office, then, and returned to California?

MR. KALMBACH. No, sir. I left the office and my memory, Mr. Jenner, is that the next day, the 27th, Mr. LaRue gave me approximately \$30,000, \$29,000, or \$30,000, in his office—I was in his office in 1701 Pennsylvania—to give to Mr. Ulasewicz, much like, exactly like the \$40,000 he had given to me on the 19th of July.

MR. JENNER. And who had arranged that meeting at which you received the \$28,900?

MR. KALMBACH. My memory is that Mr. LaRue arranged that meeting.

MR. JENNER. And then did you deliver that money to Mr. Ulasewicz?

MR. KALMBACH. Yes, sir; I did.

MR. JENNER. Did you do it by going to New York or having him come to Washington, D.C.?

MR. KALMBACH. I had him come to Washington, D.C. I think I was advised on the 26th, Mr. Jenner, that I would receive funds the next day from Mr. LaRue. I had called Mr. Ulasewicz in anticipation of that and he came down and I recall that he stayed at the Statler-Hilton Hotel. And after I received these funds from Mr. LaRue, which was in the hundred-dollar bills, I took the funds to the Statler-Hilton and gave them to Mr. Ulasewicz less \$1,000.

MR. JENNER. The fund was \$29,900, is that correct? When delivered to you?

MR. KALMBACH. My memory, Mr. Jenner, was that it was \$29,000 or \$30,000, approximately that.

MR. JENNER. So that when I said \$28,900, I misspoke earlier?

MR. KALMBACH. Well, my best memory is that \$29,000 or \$30,000.

MR. OWENS. Mr. Chairman?

THE CHAIRMAN. Mr. Owens.

MR. OWENS. Would it be appropriate for him to ask the witness how they handled the payment for all these travels back and forth for himself and Mr. Ulasewicz?

MR. JENNER. Quite proper, I would say, Mr. Chairman, if Mr. Kalmbach may respond to Mr. Owens' inquiry?

MR. KALMBACH. Yes, sir.

It was understood at the outset, Congressman, that Mr. Ulasewicz was to reimburse himself from the funds under his control for whatever out-of-pocket expenses he incurred. At all times, all of my expenses I paid for myself out of my own pocket and was not reimbursed at any time.

Mr. JENNER. Now that applies to all of your activities in this connection, does it, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir, from and after April 7, when I left as associate finance chairman, all activities I paid for from my own funds.

Mr. JENNER. And were you ever reimbursed in any respect?

Mr. KALMBACH. Never at any time.

Mr. DANIELS. Mr. Chairman.

The CHAIRMAN. Mr. Daniels.

Mr. DANIELS. Maybe I misheard. I thought that I heard the gentleman say something about turning over the funds to Mr. Ulasewicz less \$1,000.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Yes, he did.

Would you tell the committee about that, sir?

Mr. KALMBACH. Yes, sir.

Congressman, I had been asked by Gordon Strachan at the White House for \$1,000 in cash. I withheld \$1,000 from the money that Mr. LaRue gave me. I gave that \$1,000 to Mr. Strachan. I gave the total balance to Mr. Ulasewicz.

Mr. DANIELS. Thank you.

Mr. KALMBACH. Yes, sir.

Mr. SEIBERLING. Mr. Chairman, another point of clarification.

The CHAIRMAN. Mr. Seiberling.

Mr. SEIBERLING. While we are on this, I wonder if we could find out whether the witness deducted his travel expenses as a business expense?

The CHAIRMAN. He said he did not. He has said he paid it out of his own pocket.

Mr. SEIBERLING. I don't believe he said he did not at that time as a deductible, tax deductible expense.

Mr. HOGAN. Mr. Chairman, I object.

The CHAIRMAN. The witness need not answer.

Mr. JENNER. Shall I proceed, Mr. Chairman?

The CHAIRMAN. Proceed.

Mr. KALMBACH. I would like to answer that, Mr. Seiberling. I did not.

Mr. SEIBERLING. Thank you. I think that is a fair answer and a fair question.

Mr. JENNER. Now, you have mentioned Mr. Jones.

By the way, during your meeting with Mr. Ehrlichman, did you have occasion to mention Mr. Jones? Perhaps I overlooked your saying so. If you have already mentioned it, forgive me.

Mr. KALMBACH. I did, Mr. Jenner.

Mr. JENNER. Before I go to Mr. Jones, Mr. Chairman, I think it might be well to draw the witness's attention, in view of his talking about the conference with Mr. Ehrlichman, to something that occurred at a later point.

Mr. Kalmbach, did you have an occasion a good deal later in point of time to have a telephone conversation with Mr. Ehrlichman in which the subject matter of your meeting with Mr. Ehrlichman which you have described was discussed?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. And was that a face-to-face conversation or by telephone?

Mr. KALMBACH. I recall—are you talking about the 19th of April?

Mr. JENNER. I am talking about the 19th of April 1973.

Mr. KALMBACH. Yes, sir. It was a telephone conversation.

Mr. JENNER. And who arranged the call?

Mr. KALMBACH. I was in the Madison Hotel with Mr. O'Connor and my partner, Mr. DeMarco.

Mr. JENNER. That is the Mr. O'Connor who is representing you here?

Mr. KALMBACH. Yes, sir, it is.

And we had noticed in the paper that morning that Mr. Dean had made the comment that he was not going to be the scapegoat. I recall that Mr. O'Connor and Mr. DeMarco suggested to me that perhaps I should talk to, call John Ehrlichman and make certain that John Dean was going to tell the exact truth on this, confirm this. And acting on that counsel, I called the White House.

My memory is it was rather early in the afternoon—2 o'clock or thereabouts—and that I was connected with Jan Hruska, Mr. Ehrlichman's secretary. And I asked for Mr. Ehrlichman and she said, well, John's out of the office, will be back in a few minutes.

I said, well, Jan, what I will do is as soon as he comes back, would you call me? Then 5 minutes thereafter, I will call him from a pay phone in the lobby of the Madison Hotel, because I want to talk to him.

She said yes, I will do that.

So within 5 minutes or so, the phone rang and with Mr. O'Connor and Mr. DeMarco in the room and with Jan on the phone, she said, well, John's in the office. I said, well, all right, within 5 minutes I will call.

I then went downstairs and went into a pay phone in the lobby of the Madison Hotel and called him and rang right through to him.

Mr. JENNER. And you had a conversation with him?

Mr. KALMBACH. Yes, sir. I did.

Mr. JENNER. And were you aware that that conversation was being recorded?

Mr. KALMBACH. I certainly was not.

Mr. JENNER. Did you learn afterward that it had been recorded?

Mr. KALMBACH. I did.

Mr. JENNER. When did you learn that?

Mr. KALMBACH. I had learned that when Mr. O'Connor called me in California and he had been—

Mr. JENNER. Tell us when, please?

Mr. KALMBACH. Excuse me.

I believe my best recollection is that it was about the last of April that Mr. O'Connor called me in California and advised me that he had been informed by the U.S. attorney's office that I had been taped by Mr. Ehrlichman in that earlier conversation.

Mr. JENNER. Mr. Kalmbach, in the course of my discussion with you I exhibited to you for your inspection and reading and study, did I not, the transcript of that particular tape?

Mr. KALMBACH. Yes, sir, you did, Mr. Jenner.

Mr. JENNER. Do you have it before you?

Mr. KALMBACH. I do.

Mr. JENNER. Ladies and gentlemen of the committee, Mr. Chairman, this is in the Watergate book. You will find it at the April 18, 1973, position in those books.¹ I don't have the tab number, but they are chronological as to time and you will find it at about that date, in the information paragraph.

You have reviewed that transcript. To the best of your recollection, does that represent what you recall as to the conversation between you and Mr. Ehrlichman on that occasion.

Mr. KALMBACH. Yes, sir, it does.

Mr. JENNER. Is there anything in that transcript that causes you to question any of the Q's and A's and the "k" indicates your remark and the "e" indicates Mr. Ehrlichman's remarks?

Mr. KALMBACH. Yes, sir, that is correct.

Mr. JENNER. And do you accept that transcript?

Mr. KALMBACH. Yes, sir, I do. I don't have a memory outside of this transcript, so this agrees substantially with what I would recall as said during that conversation.

Mr. JENNER. Now, Mr. Ehrlichman, I do want—

Mr. HOGAN. Mr. Chairman?

The CHAIRMAN. Mr. Hogan.

Mr. HOGAN. Mr. Chairman, on the transcript at line 5 or so, should that be "Silbert" or "Silver" as it appears here?

Mr. JENNER. Congressman Hogan, line 5 on page 2215?

Mr. HOGAN. Right. It would be line 7 counting from the top.

Mr. JENNER. That is a printing misprision. It is Mr. Silbert.

Mr. HOGAN. Printing what?

Mr. JENNER. Misprint. I sometimes call misprints misprisions. I don't mean anything by that other than that it is a misprint.

Mr. HOGAN. Thank you.

Mr. JENNER. Mr. Kalmbach, are you sure, do you have an absolute recollection of Mr. Ehrlichman's remark to you that secrecy was necessary or else, "they will have our heads in their laps"?

Mr. KALMBACH. I have an absolute memory of the fact that we were talking about secrecy and that he said that, used the figure of speech that they'll have our heads in their laps.

Mr. JENNER. If secrecy is not maintained?

Mr. KALMBACH. That is correct.

Mr. JENNER. All right. Now, would you proceed, please, to your conference with Mr. Jones? Give us the genesis of that.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And what occurred, what was said, what it was, and what the data was.

Mr. KALMBACH. Should I relate the preliminaries, too?

Earlier, Mr. Jones, who had been a contributor prior to April 7, indicated to me—

Mr. JENNER. Contributor to what, sir?

Mr. KALMBACH. To the campaign.

Mr. JENNER. The campaign to reelect the President?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right.

¹ See HJC, "Statement of Information," book IV, pt. 3, 76.1, p. 1444.

Mr. KALMBACH. He indicated to me that——

Mr. JENNER. What did he say, please?

Mr. KALMBACH. He stated, "Herb, I have another 50 for you whenever you have a special need." I, of course, remembered what he had said. This was, I think, about in early April or in March. And I remembered that. Then when Mr. Dean and Mr. LaRue had asked me to raise additional funds, I decided in my own mind that I was going to see Mr. Jones about this 50.

Now, I did not ask him for cash. I just assumed that he was talking about cash, but I didn't know for certain.

Mr. JENNER. Have you told the committee who Mr. Jones was?

Mr. KALMBACH. Mr. Jones is chairman of Northrop Corp. in Los Angeles, Calif.

Mr. JENNER. Go ahead, sir.

Mr. KALMBACH. When I returned to California following my meeting with Mr. Ehrlichman on the 26th and receipt of the \$29,000 or \$30,000 from Mr. LaRue on the 27th. It is my best memory that it was sometime in the first few days of August that I called Mr. Jones at his office and he agreed to see me at his office in Century City.

I went out to, at the appointed time—2:30 or thereabouts in the afternoon. I can't pinpoint the date; I haven't been able to.

Mr. JENNER. It was in early August, however?

Mr. KALMBACH. Yes, sir, it was in early August.

I recall I went into his office, sat with him at his desk. He was sitting there facing this way and I was over here, and talked to him and after the opening amenities, he reached in his desk and gave me a package that he said was \$50,000. I just put it in my briefcase without more and very shortly, I left his office and returned to Newport Beach, which at that time of day was maybe 1½- or 2-hour drive.

After dinner, I took out the package and counted the money. When I counted it, there was \$75,000, not \$50,000.

Mr. JENNER. Was it in \$100 bills?

Mr. KALMBACH. Yes, sir. I couldn't believe this, but I counted it three or four times. It was \$75,000.

I resolved to call Mr. Jones and inform him of this mistake. I went over to a pay phone on 17th Street, near my home, and called him at his home. This was between 10 and 10:30. My wife went with me.

When I called, I said, Tom, this afternoon——

He said, yes.

I said you gave me \$75,000 instead of \$50,000.

He said, well, that is not possible.

I said, well, it is. I counted it four or five times.

He said, Herb, it is just not possible.

I said it is possible, it is what happened. What I would like to do tomorrow, Tom, is bring \$25,000 back to you so we are square, because you told me you'd give me \$50,000.

He just laughed and said, no, you just keep it and count it toward my goal figure.

I said, well, thank you, Tom, but I wanted to call so we were absolutely together again.

He said he understood, just keep it and count it toward the goal figure.

I went home and shortly called Mr. Ulasewicz—I think it was the next day. He came out to California, I think within a day or two, and I gave him the \$75,000 to hold subject to my direction.

Mr. JENNER. I would like to ask you a question or two about that event. Mr. Ulasewicz came to California?

Mr. KALMBACH. Yes, sir; he did.

Mr. JENNER. Where did you meet him?

Mr. KALMBACH. I met him in front of the Airporter Inn across from the Orange County Airport in Orange County, Calif.

Mr. JENNER. And you were in your car—automobile?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And did he get into the automobile?

Mr. KALMBACH. Yes, sir; he did.

Mr. JENNER. Did you drive somewhere?

Mr. KALMBACH. Yes, sir; we drove around and just parked within a mile or two of the Airporter Inn and just parked on a side street. I gave him the package, which I had told him was \$75,000, for him to hold. At this point, he again got into the cautionary words even more emphatically, and he used the language to the effect—and he was always very formal with me. He said, I think this is something you just don't belong in, you don't belong in, Mr. Kalmbach.

So, of course, with me being so close to the time that I had talked to Mr. Ehrlichman, that is all I needed literally for my hair to stand up. I thought, well, this is all I needed. And all of this concern and the press and the secrecy and all this 007 thing came back on me and I just nodded that I understood what he was saying. I was perplexed, concerned.

Then I took him over and dropped him in front of the Orange County Airport for his return to New York.

Mr. JENNER. Did you report at any time to Mr. Ehrlichman that you had raised the \$75,000?

Mr. KALMBACH. I did.

Mr. JENNER. Did you report to anyone else that you had raised the \$75,000?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. To whom?

Mr. KALMBACH. Mr. Stans.

Mr. JENNER. What did Mr. Stans say?

Oh, excuse me, fix a time, please, fix a time as to your report to Mr. Ehrlichman first.

Mr. KALMBACH. My best recollection on this, Mr. Jenner, is that it was on or about August 6 or thereabouts. I can't be absolutely precise, but it would be about that time when I was in Washington, D.C. I met with Mr. Ehrlichman, I think it was at a luncheon meeting. And then I met with Mr. Stans.

Mr. JENNER. You met with Mr. Stans later that afternoon?

Mr. KALMBACH. Yes, sir, that would be my recollection.

Mr. JENNER. All right.

Mr. Nussbaum suggests, and I think he is quite correct, would you relate your conversation with Mr. Ehrlichman on the date you have indicated? Was it in his office, by the way?

Mr. KALMBACH. Well, I am not absolutely certain on this, Mr. Jenner. I think I had lunch with John Ehrlichman at that time and I think that I just simply said in a brief aside to him, whether it was at lunch or on the way to lunch or something, I just said to him that I had accepted \$75,000 from Mr. Jones for that assignment and he just nodded, acknowledging that he had heard what I had said.

Mr. JENNER. All right. You met with Mr. Stans after that luncheon meeting, is that correct?

Mr. KALMBACH. That is correct.

Mr. JENNER. And what occurred at that meeting?

Mr. KALMBACH. Well, that meeting is very clear to me. Mr. Stans earlier—several months earlier, prior to April 7, Mr. Jones had indicated that he would contribute \$100,000; he pledged \$100,000 to the campaign, and they indicated that he would have a goal figure of \$250,000. Now, he pledged—I mean he had actually contributed \$95,000 or \$100,000 before April 7 and when Mr. Stans saw me in early August, he said, now, Herb, are you going to—

Mr. JENNER. You are talking about this meeting now?

Mr. KALMBACH. Yes, sir. And Mr. Stans said Herb, will you see Tom Jones and get after him about the goal figure, and he's talking about get the balance of those funds. And I said on that point I received \$75,000 from Tom Jones on that same assignment that I received the \$75,100 from you and, Maury, there is no more there, and just that's the end of it. Tom Jones did not give any more funds, and he just held up his hands like that indicating that he understood that that was it.

I didn't say any more than that.

Mr. JENNER. Now, did an occasion arise when you were asked to raise additional, still additional funds?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And give us the date and the circumstances and the event and who was involved.

Mr. KALMBACH. Well, Mr. Jenner, I can't be absolutely specific on this. It just—

Mr. JENNER. Did it occur subsequent to your conversation with Mr. Stans and Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir, it did.

Mr. JENNER. In the month of August?

Mr. KALMBACH. Yes, sir. That would be my best recollection.

Mr. JENNER. All right.

Mr. KALMBACH. And when I received that request to raise additional funds, by that time my concern had come to the point where I knew that this wasn't anything that I wanted to continue in; I would not raise additional money for this purpose.

Mr. JENNER. Have you related to the committee with whom you spoke in that connection?

Mr. KALMBACH. I indicated that to John Dean.

Mr. JENNER. Excuse me, Mr. Kalmbach, and pardon the interruption. You have a habit of using the word indicated. To the best that you are able to do will you tell us what was said?

Mr. KALMBACH. My best recollection is that I so stated this to Mr. Dean, and that, that Mr. LaRue it is my recollection.

Mr. JENNER. You told them that?

Mr. KALMBACH. That I would not raise additional funds.

Mr. JENNER. You what, would not?

Mr. KALMBACH. I would not.

Mr. JENNER. You decided to get out of the money-raising business for this project at least?

Mr. KALMBACH. Absolutely.

Mr. JENNER. All right. Now, did a time come when you really got out of the money-raising business for this project?

Mr. KALMBACH. This was it. This was the time that I got out of the money-raising business for this project.

Mr. JENNER. All right now, is the day etched in your mind sufficiently that you can give us the date?

Mr. KALMBACH. No, sir. I think it is just an accumulation of things and I think I resolved in my own mind that after I saw Mr. Ulasewicz that I would do no more and when I was subsequently asked I just turned them off.

Mr. JENNER. I call your attention to September 21, 1972. Is that date etched in your mind?

Mr. KALMBACH. Yes, sir; it is.

Mr. JENNER. And what happened on that day?

And excuse me, Mr. Chairman. When I finish this episode, if you wish to adjourn, I will be moving on to another subject matter.

The CHAIRMAN. You think that will be good?

Mr. JENNER. I will be ready to proceed anyhow, but I just thought I would alert you to that.

The CHAIRMAN. That will be an appropriate time to recess.

Mr. JENNER. Thank you. Mr. Kalmbach?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Would you relate to the members of the committee what occurred on that day, what preceded it bringing you to that point, with whom you met if you met with anybody, where and who said what and what was done?

Mr. KALMBACH. Yes, sir. On either the 17th or the 18th of September, I received directions from Mr. Dean. That is my clear recollection, to disburse the balance of the funds that were being held by Mr. Ulasewicz, which is approximately \$84,000 I think at that time, \$54,000, or thereabouts to Mrs. Hunt and \$30,000, some \$30,000 to Mr. LaRue. I so instructed Mr. Ulasewicz, and Mr. Ulasewicz, in fact, did make those distributions, which resulted in no funds remaining under the control of Mr. Ulasewicz.

Inasmuch as—

Mr. JENNER. No funds under your control?

Mr. KALMBACH. No funds under my control and being held by Mr. Ulasewicz.

Now, this was inconsistent with my earlier decision to terminate my involvement in this assignment.

I resolved in my own mind that I wanted to meet with John Dean and with Fred LaRue and effect an accounting of all funds received and all funds distributed and so that we all three of us would be of one mind. I requested that meeting and we—

Mr. JENNER. Of whom?

Mr. KALMBACH. I remember I requested the meeting of John Dean and it is my recollection that, I am not certain, I am not certain whether he, in fact, asked Mr. LaRue to attend or whether I called Mr. LaRue in addition to John Dean. But, the result was, on my own initiative, is that we met in John Dean's office on the 21st of September, 1972, and we sat, Mr. LaRue and I sat together facing Mr. Dean at his desk. I had a slip of paper in my wallet. This was——

Mr. JENNER. This was in Mr. Dean's office?

Mr. KALMBACH. Yes, sir. It is.

Mr. JENNER. In the White House?

Mr. LaRUE. Yes, sir, in the Executive Office Building. I had a slip of paper in my wallet, I took out the slip of paper and detailed the four dates and amounts that I had received funds from one contributor, Mr. Stans and two amounts from Mr. LaRue and I also detailed in total detail all expenditures that I understood Mr. Ulasewicz to have made.

Mr. JENNER. Did you include in the money the \$75,000 you had received from Mr. Jones?

Mr. KALMBACH. Yes, sir. Do you want me to recount that, Mr. Jenner?

Mr. JENNER. Yes, please.

Mr. KALMBACH. I received in, and it is very clear in my mind, on the receipt side, the \$75,100 from Mr. Stans on the 29th of June, \$40,000 from Mr. LaRue on the 19th of July, either \$29,000 or \$30,000 from Mr. LaRue on the 27th of July and \$75,000 from Mr. Jones in the first week of August.

That totals \$219,000 or \$220,000.

Now, on the expenditure side I detailed it down to individuals, attorneys, so the income side equaled out the outgo side.

Mr. JENNER. Now, as you went through the outgo, did you identify the persons to whom the money had been delivered?

Mr. KALMBACH. Absolutely.

Mr. JENNER. And is your recollection sufficient at the moment to relate to the committee what you said to them from that slip of paper with respect to the outgo?

Mr. KALMBACH. No, sir, Mr. Jenner. My memory is not that good on all of the outgo. I remember names of the individuals and some of the amounts, like some of their attorneys. Of course Mr. Bittman.

Mr. JENNER. All right. Mr. Bittman how much?

Mr. KALMBACH. \$25,000.

Mr. JENNER. And you were, you are now relating to Mr. LaRue and Mr. Dean are you?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. Mr. Rothblatt?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. How much?

Mr. KALMBACH. Well, I am not absolutely certain on this, but it would have been my understanding it was \$25,000.

Mr. JENNER. All right.

Mr. KALMBACH. To Mr. Rothblatt.

Mr. JENNER. And Mr. F. Lee Bailey?

Mr. KALMBACH. \$25,000.

Mr. JENNER. Mr. Maroulis?

Mr. KALMBACH. \$25,000.

And then \$10,000 each to three attorneys for the others. That's my memory.

Mr. JENNER. The others are the Cuban defendants?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Did you mention what you had paid to Mr. LaRue?

Mr. KALMBACH. Yes, sir, I did; \$29,000 or whatever, \$30,000 I think it was that Mr. Ulasewicz dispensed to Mr. LaRue per Mr. Dean's directions.

Mr. JENNER. And ladies and gentlemen of the committee, Mr. Chairman, those figures from my arithmetic amount to \$160,000. Is that correct, Mr. Kalmbach?

Mr. KALMBACH. The total was, of course, \$219,000 or \$220,000.

Mr. JENNER. Well, the figures we have just discussed amount to \$160,000. Did you go on with respect to reporting what you had paid to Mr. Liddy?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. \$8,000?

Mr. KALMBACH. Yes, sir, but there would have been more and I just don't have a good memory on this, Mr. Jenner, with precision on that.

But, I do recall with clarity one disbursement of \$8,000 to Mr. Liddy.

Mr. JENNER. And did you mention the \$1,000 to Mr. Strachan?

Mr. KALMBACH. Yes, sir, I did and \$1,000 which was retained by Mr. Ulasewicz for his expenses.

Mr. JENNER. In any event, when you finished that recital, having your slip of paper before you, what did Mr. Dean and Mr. LaRue say or either of them say to the extent of your present recollection?

Mr. KALMBACH. They both agreed that the figures coincided with their understanding of the distributions, and it is my memory that Mr. LaRue had a record with him. But, I am not absolutely certain on that.

But, I know that my best recollection is that they did. Once I had recited the income and outgo and balanced it, I wanted, I asked them both to agree that my accounting was full and complete and they were in full agreement with it. Then they both stated that they were. I then turned to Mr. Dean and I said John, can I use your shredder to shred this accounting of mine which was just a slip of paper, and he said, he said, no I would rather not use the shredder out by my secretary and he was smoking a cigarette and just took the ashtray and put it over there in front of his desk. And I am not sure whether he put the match to the strip of paper or whether I did, but that was how the piece of paper was destroyed.

Mr. JENNER. That is that event, Mr. Chairman.

The CHAIRMAN. Is that it?

Mr. JENNER. Yes, Mr. Chairman.

The CHAIRMAN. We will stand in recess until 9:30 tomorrow morning.

[Whereupon, at 8:02 p.m. the hearing was recessed to reconvene on Wednesday, July 17, 1974 at 9:30 a.m.]

IMPEACHMENT INQUIRY

WEDNESDAY, JULY 17, 1974

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m. in room 2141, Rayburn House Office Building, Hon. Peter W. Rodino, Jr. (chairman) presiding.

President: Representatives Rodino (presiding), Donohue, Brooks, Kastenmeier, Edwards, Hungate, Conyers, Eilberg, Waldie, Flowers, Maun, Sarbanes, Seiberling, Danielson, Drinan, Rangel, Jordan, Thornton, Holtzman, Owens, Mezvinsky, Hutchinson, McClory, Smith, Sandman, Railsback, Wiggins, Dennis, Fish, Mayne, Hogan, Butler, Cohen, Lott, Froehlich, Moorhead, Maraziti, and Latta.

Impeachment inquiry staff present: John Doar, special counsel; Albert E. Jenner, Jr., minority counsel; Samuel Garrison III, deputy minority counsel; Bernard Nussbaum, counsel; Richard Gill, counsel; Gary Sutton, counsel; Michael Conway, counsel; and Stephen A. Sharp, counsel.

Committee staff present: Jerome M. Zeifman, general counsel; Garner J. Cline, associate general counsel, Alan A. Parker, counsel; Daniel L. Cohen, counsel; William P. Dixon, counsel; Arden B. Schell, counsel; Franklin G. Polk, associate counsel; Thomas E. Mooney, associate counsel; Michael W. Blommer, associate counsel.

Also present: James D. St. Clair, special counsel to the President; John A. McCahill, assistant special counsel; and Malcolm J. Howard, assistant special counsel.

The CHAIRMAN. The committee will come to order.

When we recessed last night, Mr. Jenner was continuing his interrogation of Mr. Kalmbach.

I might say to the members that the Democratic caucus, which is now about to meet, has some important issues which will be before it for a vote. It is entirely likely that this morning, should votes occur, and they are recorded votes, that we may have to recess for a short time to go cast our votes in the Democratic caucus, which has to do, I think, with the reorganization of the committees of the Congress.

Mr. Jenner.

TESTIMONY OF HERBERT WARREN KALMBACH, ACCOMPANIED BY JAMES H. O'CONNOR, ESQ., COUNSEL—Resumed

Mr. JENNER. Thank you, Mr. Chairman.

Mr. Kalmbach, you appreciate the fact that you are still under oath?

Mr. KALMBACH. Yes, sir; I do.

Mr. JENNER. Now. I will take you back for a moment to September 2, 1972. Do you recall having a meeting with Mr. Ehrlichman on that date?

Mr. KALMBACH. I do.

Mr. JENNER. And would you tell us how that meeting came about?

Mr. KALMBACH. It is my best recollection that that meeting came about as a result of an earlier call that I had received from the FBI asked that I meet with two of the agents to, I think, relate matters relative to Donald Segretti.

Mr. JENNER. This was, I said, September 2, and that is September 2, 1972?

Mr. KALMBACH. Yes, sir. That is correct.

Mr. JENNER. Where did that meeting take place, or was it a telephone conference between you and Mr. Ehrlichman?

Mr. KALMBACH. I think it was actually a meeting.

Mr. JENNER. Where?

Mr. KALMBACH. Mr. Jenner, it took place at the compound in San Clemente.

Mr. JENNER. In Mr. Ehrlichman's office?

Mr. KALMBACH. Yes, sir, that's my recollection.

Mr. JENNER. And September 2d is a Saturday, as I recall it.

Mr. KALMBACH. Yes, sir, I believe that's true.

Mr. JENNER. I have checked, Mr. Chairman. It is a Saturday.

Would you state that conversation in short compass, please?

Mr. KALMBACH. Again, as I remember it, what I wanted to do at that meeting was advised Mr. Ehrlichman of this inquiry I had had from the FBI, and to ask him to authorize me to meet with John Dean later that day, at which time I would relate the entirety of my involvement with Donald Segretti.

Mr. JENNER. Was this a request to meet John Dean on your part or was it on the part of Mr. Ehrlichman?

Mr. KALMBACH. I think it was on my part, and I think that it arose from an earlier telephone conversation I had had with Mr. Dean, but I wanted to meet with Mr. Ehrlichman beforehand to advise him of the forthcoming FBI interview, and also to advise him that I wanted to relate, as I say, the entirety of my involvement with Donald Segretti.

Mr. JENNER. I see. And what did Mr. Ehrlichman say with respect to, if he said anything, with respect to that meeting that you were to have with Mr. Dean?

Mr. KALMBACH. It was very brief, Mr. Jenner, and he simply advised me to meet with Mr. Dean, and get his counsel on the forthcoming interview with the FBI, which was then scheduled for the following Monday, Labor Day, at 10 o'clock in our Los Angeles office.

Mr. JENNER. All right. Did you meet with Mr. Dean the following Monday?

Mr. KALMBACH. No, sir. I met with Mr. Dean later that day. I think was the 2d, on Saturday, later that day, again at the compound in San Clemente.

Mr. JENNER. All right, would you state what occurred by way of conversation or otherwise between you and Mr. Dean on that occasion?

Mr. KALMBACH. Yes, sir. I told Mr. Dean again, related the complete totality of my involvement with Mr. Segretti, and asked for his counsel. He indicated to me one, of course, to tell the truth exactly as to my involvement, and two, he advised me that he did not think I would be interrogated as to anything outside of the Donald Segretti matter.

Mr. JENNER. Had you indicated to him and Mr. Ehrlichman the concern that you might be examined about other things; that is, things other than or in addition to the Segretti incidents?

Mr. KALMBACH. That is my recollection; yes, sir.

Mr. JENNER. And what did Mr. Dean say?

Mr. KALMBACH. Mr. Dean advised me that he did not believe that I would be asked anything other than within the Donald Segretti area.

Mr. JENNER. Did he say anything else?

Mr. KALMBACH. No, sir, I don't recall that he did.

Mr. JENNER. Did he say anything about not volunteering?

Mr. KALMBACH. Yes. I'm sorry, Mr. Jenner. He just said, one, tell me the totality of this, but do not volunteer, volunteer beyond responding of the question of the agents, and again he repeated that it was his belief that I would not be interrogated in other areas.

Mr. JENNER. Now, I would like to move to the spring of 1973, Mr. Kalmbach.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. The month of April. Do you recall a conversation with Mr. John Dean the first week in April 1973?

Mr. KALMBACH. Yes, sir. This is the very last time that I spoke to Mr. Dean.

Mr. SANDMAN. What was the date again?

Mr. KALMBACH. I believe it was in very early April, the first week of April of 1973, Congressman.

Mr. JENNER. By the way, Mr. Kalmbach, do you recall a conversation, before I go into that meeting, on January 19, 1973, with Mr. Mitchell, Mr. Dean, and Mr. LaRue respecting raising funds?

Mr. KALMBACH. I do, sir.

Mr. JENNER. And did it occur on January 19?

Mr. KALMBACH. It did.

Mr. JENNER. Now, Mr. Kalmbach, you have repeatedly, of course, responded to my inquiries when I asked you about particular dates. Did you maintain a desk diary that lawyers normally maintain?

Mr. KALMBACH. Yes. My Secretary had a diary.

Mr. JENNER. Preceding your testimony yesterday and today, have you examined that diary to refresh your recollections?

Mr. KALMBACH. Yes, sir, I have.

Mr. JENNER. And in the course of our interviews with you, did you have that diary also to refresh your recollection?

Mr. KALMBACH. Yes, sir, I did, to enable me to refresh my recollection.

Mr. JENNER. All right. Tell us in substance the meeting with Mr. Mitchell, Mr. Dean, and Mr. LaRue on January 19, 1973. Please tell us where it was, how it came about and the substance of the meeting.

Mr. KALMBACH. Excuse me, Mr. Jenner. This was on the—

Mr. JENNER. Nineteenth.

Mr. KALMBACH. January 19?

Mr. JENNER. January 19, 1973.

Mr. KALMBACH. Yes, sir. On the afternoon of the 19th, which was on a Friday, there was an annual meeting of the Richard Nixon Foundation trustees at Blair House. That meeting adjourned approximately at 3:30 or 4 that afternoon.

As the meeting adjourned, Mr. Dean, who was in attendance at that meeting, indicated to me, stated to me that Mr. Mitchell would like to see me in his office. Mr. Dean and I then left Blair House, which is a half a block away from 1701 Pennsylvania and I recall running through—it was a misty-like rain—with Mr. Dean to the 1701 building. We took the elevator up to the floor on which Mr. Mitchell's office was located, and went directly into his office. Already present in the office was Mr. Mitchell and Mr. Fred LaRue. And I was seated here, Mr. Mitchell was at his desk here, and Mr. Dean was here, and Mr. LaRue was over there. [Indicating.]

And after opening comments of whatever, just amenities, I was—Mr. Dean, who led the conversation, indicated that what they were—

Mr. JENNER. What did he say?

Mr. KALMBACH. Mr. Dean stated that they were interested in my raising additional funds for these defendants. And the minute that came up, suddenly I knew, of course, what the reason was for this meeting. And I, of course, had made up my mind the prior August that I would not raise additional funds, and so I was just in the position of excusing myself as gracefully as possible from the meeting, and indicated that—and said that I would not do anything further. And within a matter of a few minutes I left the meeting. I don't think I was in attendance at that meeting, Mr. Jenner, longer than 5 or 10 minutes.

Mr. JENNER. All right. thank you.

Now, returning to the meeting or to the conversation in the first week of April 1973, would you now state how that meeting came about or telephone conference, whichever it might be, and the substance of the conference and the subject matter of the conference?

Mr. KALMBACH. Was that with Mr. Dean?

Mr. JENNER. It was.

Mr. KALMBACH. Yes, sir. The reason for this call, and it was a telephone call, was that Mr. DeMarco and I had been dealing primarily through Mr. Dean, and up to that time in such things as scheduling for the President's tax return to be filed. And I know Mr. DeMarco had asked me about when it would be arranged that he could be, or the accountant could be, in Washington or meet with the President to have the return executed.

Also we were talking with Mr. Dean about a possible site for the Richard Nixon Foundation.

I called Mr. Dean on the telephone from Newport Beach. It is my recollection that when he came on the phone, he indicated, he stated to me words to the following effect. He said Herb, I am effectively out of this now, I have retained counsel, and I recall the name of Hogan and Shaffer as the name of the law firm. And he indicated I should not, stated that I should not be talking to him any longer about these

things. I expressed to him, stated to him that my concern about these forthcoming hearings, about my forthcoming meetings with the U.S. attorney's office, and he repeated what he had said to me several times before, which was Herb, you just have no culpability in this, and you are not to be concerned.

He did say tell the exact truth, but you have no culpability. He added that Herb, you are the last one I want to hurt. I remember that statement clearly. And with that, that was the way the conversation was left, and that was the very last time I talked to him. He indicated, stated to me that if Mr. O'Connor or I wanted to reach him further we should do—we should reach him through the law firm of Hogan and Shaffer, and that was the very—we terminated the conversation, and that was the very last time I have talked to him.

Mr. JENNER. Later that day, or at least following this meeting, did you have a meeting with Mr. Ehrlichman at which Mr. O'Connor was present?

Mr. KALMBACH. No, sir. I had a meeting with Mr. Ehrlichman but Mr. O'Connor was not present.

Mr. JENNER. I have in mind, Mr. Kalmbach, a meeting with Mr. Ehrlichman in which the suggestion, as I recall your interview, was made that you go on television with Mr. Chapin and Mr. Segretti.

Mr. KALMBACH. Yes, sir. That was a meeting, and I was not in attendance at the meeting. It was O'Connor who met with Mr. Ehrlichman and I think two others in the White House.

Mr. JENNER. All right. That's hearsay as far as you are concerned? You were not present?

Mr. KALMBACH. I was not present. I was advised of this meeting by Mr. O'Connor.

Mr. SEIBERLING. Point of clarification, Mr. Chairman. I believe, at least I am under the impression that Mr. Jenner indicated that the first week of April 1973, that Mr. Kalmbach had a meeting with Mr. Dean, and it turns out it was a telephone conversation. Is that correct?

Mr. KALMBACH. Mr. Seiberling, I think that he, Mr. Jenner, indicated that or stated it was either a meeting or a telephone call, and I confirmed that it was a telephone call.

Mr. SEIBERLING. Thank you.

Mr. JENNER. Thank you.

Directing your attention to April 6, 1973, if you remember that date or recall it from your diary?

Mr. KALMBACH. I do, sir.

Mr. JENNER. Did you have a telephone conference with Mr. Ehrlichman on that day?

Mr. KALMBACH. No. I had a face-to-face meeting with Mr. Ehrlichman on that day.

Mr. JENNER. Was it preceded, sir, by a telephone call?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And where did that meeting take place?

Mr. KALMBACH. That meeting took place in San Clemente.

Mr. JENNER. Where in San Clemente?

Mr. KALMBACH. It was in—do you want me to trace the background of this?

Mr. JENNER. If you will, please.

Mr. KALMBACH. Through the week of—

Mr. JENNER. Excuse me, Mr. Chairman. At this point it would be well I believe to call the committee's attention to the fact there is an Ehrlichman memorandum of this meeting on April 6, 1973. It is in the books that have been supplied to the committee, and it happens to be SSC exhibit No. 100, which appears at book 7 SSC 2947.

Proceed, Mr. Kalmbach. I supplied it to you in the envelope that we gave you yesterday, and I will be referring specifically to it.

Go ahead, Mr. Kalmbach, please.

Mr. KALMBACH. Mr. Jenner, Mr. Ehrlichman was in California at this time with the President and Mr. Haldeman. And early that week—the 6th was on a Friday—and earlier that week I placed a couple of calls to Mr. Ehrlichman and indicated that I wanted to meet with him.

I recall talking to Jan Hruska, his secretary, and that we had a tentative 12 noon meeting date in San Clemente for Friday, the 6th. At about 10:15 or 10:30 in the morning on Friday, the 6th of April 1973, I received a telephone call from Jan Hruska from San Clemente, and she stated to me in that call that Mr. Ehrlichman would meet me in San Clemente at 11:30 that morning, an hour later, in the parking lot of the Bank of America.

I then left my office. It took me 45 minutes to drive to San Clemente. I was at the parking lot at 11:30. Shortly thereafter, just within a matter of a few minutes, Mr. Ehrlichman drove up, left his car and came over and joined me in my car, and we departed the parking lot.

I recall as we left the parking lot I suggested we have lunch, and we started to look for a restaurant in downtown San Clemente. And Mr. Ehrlichman just suddenly said, well, Herb, let's just drive up in the hills and park and talk, because I need to be back, I think he said at 1 o'clock. So, let's just do that. And it didn't make any difference to me, and we, in fact, did that. We drove up into the hills and turned around and parked, and I remember facing down in toward the ocean.

Mr. JENNER. What did you say to Mr. Ehrlichman and what did he say to you, as best you are able now to recall.

Mr. KALMBACH. Yes, sir. I recall that I stated to him again my concern about the forthcoming hearings, my concern about meeting with the U.S. attorney's office. I told him that I had talked with Mr. O'Connor, had retained Mr. O'Connor as my attorney, an old friend of mine, that I had told Mr. O'Connor fully about the Donald Segretti involvement, but I had not advised him of anything else, including the payments to the defendants, or didn't advise him about my personal loan to Mr. Ehrlichman, and Mr. Ehrlichman understood that.

And he said Herb, I understand, and you are released from all confidences. He had told me before on this I was not to speak to anybody about anything and I wanted a formal release. And he did in fact, release me to advise counsel of everything. I remember that he just said tell the truth, Herb, right on through. He said now Herb, you make sure that you tell that John Dean directed you in this activity, meaning the payments to the defendants, and I remember very clearly sitting here behind the steering wheel, and Mr. Ehrlichman sitting next to me, and I remember turning to him and I said, "And you too, John." And he looked at me and nodded. He just looked at me and nodded when I said that.

Now, he indicated to me or stated to me that he thought that Bob Haldeman would be leaving the White House soon, and that he would be taking on most of his duties. I am just remembering these things as I have reconstructed this conversation.

I recall further that I said I am—of course Mr. Jones is going to have to be named as having been one of those, a lead contributor, and he understood that. I said that I am going to have to relate the fact that I gave \$400,000 to people at the direction of Mr. Higby. He understood that, and I remember he said well, you mean the payments to Mr. Brewer. And the name, although I had heard from, subsequent to my payments in 1970, I had heard from, I am not certain where, but I had heard that these payments were to go into that campaign. This is my recollection, that this was the first time that he had advised me of this.

MR. JENNER. Mr. Chairman, may I interrupt to say that pursuant to my representation to the committee yesterday. I am leaving some things out in the interest of time, but one of the items we will discuss this morning or question the witness about is the Brewer payment.

Proceed, Mr. Kalmbach.

MR. KALMBACH. There were a couple of more items. I recall another item that I raised with Mr. Ehrlichman. I said John, you know that one thing that's bothered me and bothered my attorney, Jim O'Connor, is the Martha Mitchell matter on the 23d of June. I think it was the 23d or 24th of June 1972, and because the press had come out with statements to the effect that I had been requested by the White House to go over to see Mrs. Mitchell and help her out, where, in fact, John Mitchell had called me that morning to ask me as a favor to go over to be helpful to his wife. And I felt it was an unfair inference that it was the White House that had been calling, when in fact, I had been asked as a personal favor by Mr. Mitchell to do this.

And I recall Mr. Ehrlichman said well, you can state that, and state it in its entirety. I felt some animosity towards Mr. Mitchell in that statement.

MR. JENNER. Animosity on the part of Mr. Ehrlichman?

MR. KALMBACH. Ehrlichman towards Mr. Mitchell.

MR. JENNER. All right. Proceed, Mr. Kalmbach. Just exhaust your recollection of that meeting and all of the conversations.

MR. KALMBACH. I remember that I told Mr. Ehrlichman that I had retained Mr. O'Connor, and that I asked Mr. Ehrlichman if he would meet with Mr. O'Connor and he said yes he would.

I remember another thing. I remember that right at the tail end of this conversation that I told him that—I remembered another one too.

I remembered that I told him that I was disturbed because of my—the lack of action of the White House on two commitments outstanding for ambassadorial posts, and I was upset about it, renegeing on what commitments that had been made. And he understood. And he said well, that Peter Flanigan had been blocking these appointments, but I wanted to get it over to him that I felt that it was a matter of honor and we had to perform.

I remember another thing.

MR. JENNER. Did you name the appointments?

MR. KALMBACH. Yes, sir, I did. I named the two people to whom commitments had been given.

MR. JENNER. Who were those two people?

Mr. KALMBACH. Ambassador Symington and Ambassador deRoulet. I remember that with absolute clarity.

Mr. JENNER. Go ahead.

Mr. KALMBACH. Another item I remember in that conversation, I told Mr. Ehrlichman I was going to advise Mr. O'Connor about the fact that I had made this personal loan, and Mr. Ehrlichman had told me when I had made the loan to him back in May of 1972, he asked me to hold it absolutely in confidence and I only told my wife and my secretary, and nobody else. And I didn't tell anybody in the firm or anything because I just adhered to what I said I would do. And I wanted to tell Mr. O'Connor about this loan, and I wanted to get the release from Mr. Ehrlichman in order to do so.

And he understood, and then I remember Mr. Ehrlichman saying Herb, you want me to pay the loan off now? And I said no, John, that's not needed or not necessary because it's not, it hasn't matured yet, and it's as far as I am concerned, you just pay it off at maturity.

Mr. JENNER. Have you exhausted your recollection?

Mr. KALMBACH. Yes, sir, I have

Mr. JENNER. Congressman Seiberling is asking a point of clarification. Do you recall what Mr. Ehrlichman's response was to the matter of the note?

Mr. KALMBACH. Yes, sir, Mr. Seiberling. Mr. Ehrlichman just acknowledged with thanks my statement that that note was not to be paid until due. And I remember Mr. Ehrlichman responding to my concern about the forthcoming Senate Select Committee hearings, and my appearance before the U.S. attorney and to the effect that Herb, you have no culpability in that, just absolutely none. But, I remember we talked about the fact that these payments were made for these people for their attorneys and for their families' support. I remember that with precision.

Mr. RANGEL. Mr. Chairman, a clarification on the commitments to the ambassadorial posts.

Mr. JENNER. Mr. Chairman and Congressman Rangel, we intend to go into that at a later point, please.

Mr. RANGEL. Thank you.

Mr. KALMBACH. One other point, Mr. Jenner. I am doing my best to come up with this entire conversation. I remember that as I took Mr. Ehrlichman, drove down into San Clemente and the Bank of America was right over here, and I let Mr. Ehrlichman out across the street, out on the curb, and as I said goodbye to him I told him that my—what I had told him earlier, that we would like to have him come into the firm whenever he leaves the Government, and he understood and thanked me, and stepped out of the car. And that's my very best recollection of that visit, and that was the last time that I physically met and talked with Mr. Ehrlichman, to my very best recollection.

Mr. JENNER. Now, you have exhausted your recollection as to what occurred and what was said at that meeting?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. For the purpose of possibly refreshing your recollection, was there anything said as you drove down the hill or at the Bank of America or across from the Bank of America building by Mr. Ehrlichman with respect to your representation, that is your firm's representation of the President?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us about that.

Mr. KALMBACH. When I told him that Frank DeMarco and I had had problems about arranging for Frank or the accountant to go to San Clemente to have the President execute his tax return for 1972, and finally because the time was short, this was the 6th, that the decision was made by Mr. DeMarco to send the return to Washington for execution, and the President was going back the following day, on the 7th, and he understood, and we were concerned because they seemed, Mr. Haldeman and the inquiries that we were making of that office seemed to be putting us off on something that we thought was important, and I just said well, John, is the President pulling away from the law firm? And he assured me he was not.

Mr. JENNER. All right now, Mr. Chairman and members of the committee, several members of the committee have inquired of me with respect to a portion of the edited transcripts and desired me to ask Mr. Kalmbach some questions. And the edited transcript is, the page to which I will address the questions, the subject matter is page 983 of the blue book.

The CHAIRMAN. Could we have the date, Mr. Jenner, of that transcript?

Mr. JENNER. April 17 at 9:47 in the morning. You will find at page 980 of the edited transcript it says appendix 38, meeting, the President, Haldeman, Oval Office, April 17, 1973, 9:47 to 9:59 a.m.

We wish to call your attention to the following, Mr. Kalmbach, and the committee as well. This is a meeting between the President and Mr. Haldeman as recorded in the Oval Office, and they are talking. And I will start back at the bottom of page 982. Mr. Haldeman says to the President—

I think I mentioned it to you. Remember I described the story to you in some detail (unintelligible) walking down 17th Street.

The PRESIDENT. That was all after we had started our own investigation?

HALDEMAN. Oh, yeah.

The PRESIDENT. I mean it wasn't back then, it wouldn't indicate that we knew all about this, et cetera. Another thing, if you get John and yourself to sit down and do some hard thinking about what kind of strategy you are going to have with the money, you know what I mean?

HALDEMAN. Yeah.

Now, there appears, the reason I read that, there now appears next a parentheses with "material unrelated to the President's actions deleted." And then there follows after that deletion, which I call to your attention because there is a problem of the antecedence of various pronouns in the next three paragraphs.

The PRESIDENT. Look, you've got to call Kalmbach so I want to be sure. I want to try to find out what the hell he is going to say. He told Kalmbach. What did Kalmbach say he told him? Did he say that they wanted this money for support or—

HALDEMAN. I don't know. John has been talking to Kalmbach.

The PRESIDENT. Well, be sure that Kalmbach is at least aware of this, that LaRue has talked very freely. He is a broken man.

Mr. Kalmbach, up to April 19 or April 17, either date, had you been advised by anybody, or did you learn through any source, that Mr. LaRue was talking freely to the grand jury?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us who advised you and the circumstances, when it took place, and where.

Mr. KALMBACH. Yes, sir. On the 19th of April, 1973, the reason for the, the reason why that date is clear in my mind is that I stated this fact that I met with Mr. O'Brien in my conversation later that day, which I have already testified to, the conversation by telephone call to Mr. Ehrlichman. But, that morning O'Brien and Mr. DeMarco and I had met with Mr. Stans in Mr. Stans' office in Washington.

While we were in Mr. Stans' office, or when I had excused myself from the office, we received a call from Mr. O'Brien, as I remember it, and Mr. O'Brien asked that we stop by his office after we had finished our conversation with Mr. Stans. I agreed to do so, and it is my best recollection that I talked to Mr. O'Brien and agreed that we would do so.

That meeting with Mr. Stans I think broke up 10:30 or thereabouts. I am not certain of that. But, we walked from Mr. Stans' office at 1701 Pennsylvania, to Mr. O'Brien's office, and I don't remember the address of that. But, we went up and met with Mr. O'Brien, and I recall two areas that he wanted to talk about. He was very concerned and down about his own exposure in this whole Watergate area, and indicated words to me——

Mr. JENNER. What did he say?

Mr. KALMBACH. He stated to me and to Mr. DeMarco and to Mr. O'Connor words to the effect that he felt that several lawyers would be indicted and indicated, and stated to me that he felt that I had a likelihood or a possibility of indictment. He also, I remember this very clearly, stated to me that he had talked to Mr. LaRue, and Mr. LaRue had asked him to relay to me the fact that he had to name me in this matter of the payments to these Watergate defendants, and that Mr. LaRue wanted me to know about that, that he was sorry, but that was what he had to do. And, of course, I understood completely.

Mr. JENNER. Now, did you learn of this information from any other source up to that moment?

Mr. KALMBACH. No, sir. I don't have any recollection of having learned that from any other source up to that very moment.

Mr. JENNER. All right now, returning to your conference in the hills with Mr. Ehrlichman, did you subsequently become aware of the fact that Mr. Ehrlichman prepared a memorandum of that conference?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. When did you first become aware of that?

Mr. KALMBACH. I think at the time of the Watergate hearings.

Mr. JENNER. In the course of your conferences and my interviewing of you, was that memorandum displayed to you or did you read it?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. Ladies and gentlemen of the committee, and Mr. Chairman, that is one of the documents that is in the envelope that was furnished to you. It is a single sheet entitled "Exhibit No. 100." At the top of the page is the number 2947. And Mr. Chairman, for purposes of identification, may we mark that exhibit as Kalmbach exhibit No. 1.

The CHAIRMAN. It will be so identified.

Mr. JENNER. Please, would you furnish the witness a copy? Do you have that document before you? Does he have it, Mr. O'Connor?

Mr. O'CONNOR. Yes, sir.

Mr. JENNER. Thank you. Referring to Kalmbach exhibit No. 1, I ask you whether that memorandum, prepared by Mr. Ehrlichman, is in all respects true and correct?

Mr. KALMBACH. It is not.

Mr. JENNER. Now, would you take it paragraph by paragraph, line by line, if necessary, sentence by sentence and state to the ladies and gentlemen of the committee the respects in which that memorandum is incorrect?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And you might tell us what parts of it are correct as well. Let's take the first paragraph.

Mr. KALMBACH. Notes of a meeting, San Clemente, approximately noon. That is correct, from 11:30 to approximately 12:45.

The second paragraph, "Kalmbach was very concerned about the effect of his testimony with regard to raising money." That is correct.

The third paragraph, "It is his recollection that John Dean telephoned him to ask him to do so upon the representation that both Bob Haldeman and John Ehrlichman had okayed his doing so." That is incorrect.

Mr. JENNER. State what is incorrect. Why is it incorrect? Let's put it that way.

Mr. KALMBACH. Well, I don't recall that I told him when we met together, and I gave—I have just given a recounting of my very best recollection of the totality of that meeting, but my recollection is that I did not say that when John Dean called that he said that Bob Haldeman and John Ehrlichman had okayed this request for this assignment. John Dean, in fact, when he called on the 28th day of June, and we talked on the telephone, he simply said, "We want you to come back to Washington at the earliest possible time, in fact, to catch the next available airplane."

Mr. JENNER. He used the pronoun "we?"

Mr. KALMBACH. Yes, sir, he did. And then when we met in the park at approximately 9, 9:30 on the 29th, he did not—he again indicated "we" and never indicated the names of anyone at all, John Mitchell, anyone at all.

Now, the next paragraph—

Mr. JENNER. Excuse me. So the statement in the memorandum that Mr. Dean telephoned you to ask you to do so upon the representation that Bob Haldeman and John Ehrlichman had okayed his doing so; that is not correct?

Mr. KALMBACH. That is not correct.

Mr. JENNER. That is not correct, in fact, and you did not say it in the course of that conversation with Mr. Ehrlichman?

Mr. KALMBACH. That is my best recollection.

Mr. JENNER. All right, next paragraph, please.

Mr. KALMBACH. The next paragraph, "Kalmbach assumed that he would not be asked to do anything illegal or improper." I think I probably did state that.

"He had no occasion to check the law nor to inquire into the disposition of funds." That is incorrect. I did not state that on any occasion. I never even thought of checking the law because I had no thought at all there was any impropriety involved at all. "Or inquire into the disposition of funds." I knew exactly how the funds were being disbursed per my instructions that I received from Mr. Dean and Mr. LaRue.

"He arranged for a 'Mr. Rivers' to carry the money from California to Washington and to deliver it according to John Dean's instructions."

Now that, the Tom Jones payment was, in fact, carried by Mr. Ulasewicz, who also had that alias, Mr. Rivers. It was carried from California. It was carried to New York and subsequently disbursed, per John Dean's and Fred LaRue's instructions.

Next paragraph, "Kalmbach does not know to this day how the money was used." That is incorrect.

Mr. JENNER. What is correct?

Mr. KALMBACH. The correct, the truth is that I did know how it was used insofar as I was advised by Mr. Dean and Mr. LaRue, and so advised Mr. Ulasewicz, and a subsequent full accounting on the 21st of September of 1972.

Mr. JENNER. Mr. Kalmbach, all I am asking you is whether the memorandum containing that sentence, that subject matter was discussed at the meeting and whether that sentence represents what you said?

Mr. KALMBACH. My recollection is that it was not discussed, and that I don't recall having said this.

Mr. JENNER. All right. Proceed to the next sentence, please.

Mr. KALMBACH. "He was not willing to disclose to me who he raised the money from, but my impression is that he raised it from two individuals who paid him cash and desired passionately to remain anonymous." That is incorrect.

Mr. JENNER. What did you say at that meeting?

Mr. KALMBACH. As I have stated, I advised him of Mr. Jones having been—giving me \$75,000, which he had learned beforehand, and that Mr. Jones would have to be revealed, his name would have to be revealed. I do not recall stating to him that there was a desire, a passionate desire on the part of Mr. Jones or Mr. Stans for anonymity. The reverse was true, when I talked to Mr. Stans and to Mr. Jones I told them that there was absolute confidentiality.

Mr. JENNER. That portion of the sentence in which he states that you stated you were unwilling to disclose to him on that occasion who he raised the money from, that I take it is incorrect insofar as Mr. Jones, your obtaining funds from Mr. Jones?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. You did not under your oath of secrecy disclose anything else by way of identification of sources of funds?

Mr. KALMBACH. I don't recall that I did, but I do recall with precision talking of Mr. Jones' contribution.

Mr. JENNER. All right. Have you completed your comments with respect to the fourth full paragraph?

Mr. KALMBACH. Yes, sir. And the last paragraph—

Mr. JENNER. Is that correct in all respect?

Mr. KALMBACH. The first sentence is correct. Well, in the first sentence it is incorrect or incomplete in the fact of inasmuch as he did not state that it was also money for the attorneys for the defendants. He did not state the money was used for attorneys. I do recall that I felt there was a moral obligation outstanding. I see attorneys' fees in the next sentence.

Mr. JENNER. Do you have any further comments?

Mr. KALMBACH. No, sir.

Mr. JENNER. With respect to that exhibit?

Mr. SEIBERLING. Point of clarification, Mr. Chairman. It isn't clear whether Mr. Kalmbach is saying in the last paragraph that it is or is not correct.

Mr. KALMBACH. I'm sorry, Mr. Seiberling. I was reading not as a whole.

Mr. JENNER. Well, would you respond to Congressman Seiberling's inquiry, please.

Mr. KALMBACH. Reading the paragraph as a whole, Congressman, I do feel that that is correct.

Mr. JENNER. Mr. Chairman, may Kalmbach exhibit No. 1 be made a part of the record?

The CHAIRMAN. It will be made a part of the record.

[The document referred to was marked for identification Kalmbach exhibit No. 1 and follows:]

[Kalmbach Exhibit No. 1]

2947

EXHIBIT No. 100

Notes of a meeting with Herb Kalmbach, April 6, 1973,
in San Clemente, California approximately Noon

Kalmbach was very concerned about the effect of his testimony with regard to raising money for the Watergate defendants upon Kalmbach's reputation and family.

It is his recollection that John Dean telephoned him to ask him to do so upon the representation that both Bob Haldeman and John Ehrlichman had OKayed his doing so.

Kalmbach assumed that he would not be asked to do anything illegal or improper, he had no occasion to check the law nor to inquire into the disposition of the funds, he arranged for a "Mr. Rivers" to carry the money from California to Washington and to deliver it according to John Dean's instructions.

Kalmbach does not know to this day how the money was used. He was not willing to disclose to me who he raised the money from but my impression is that he raised it from two individuals who paid him cash and desired passionately to remain anonymous.

Kalmbach has the impression that the money was to be used for compassionate purposes, that is, the support of the families of the imprisoned defendants, and that the money was being furnished to them by way of a moral obligation for the well-being of the families. He understands that some of the money was to be used for attorneys' fees for the men either directly or indirectly. Kalmbach has retained the services of an attorney named Paul O'Connor of Phoenix, a long-time friend, and he asked that I see Mr. O'Connor on his first visit to Washington as a courtesy. I agreed to do so.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Point of clarification. Does Mr. Kalmbach say that he mentioned that it was for the support of the imprisoned defendants, or all of the defendants with respect to the Watergate case?

Mr. KALMBACH. Well, it was——

Ms. HOLTZMAN. At that time?

Mr. KALMBACH. No, it was, I understood it to be and stated to Mr. Ehrlichman, again what I had stated to him earlier, that these funds were for the support of the families of the Watergate defendants and for their attorneys.

The CHAIRMAN. Ms. Jordan.

Ms. HOLTZMAN. I'm sorry, Mr. Chairman. Is it only the imprisoned defendants?

Mr. JENNER. Congresslady Holtzman is directing your attention to the word imprisoned in the third line.

Mr. KALMBACH. The seven Watergate defendants.

Mr. JENNER. Did you use the word "imprisoned," the expression "imprisoned defendants" in the course of your conference with Mr. Ehrlichman?

Mr. KALMBACH. No, I did not. I think just the Watergate defendants.

Mr. JENNER. So the word "imprisoned" is his word which was not used during the course of your conference?

Mr. KALMBACH. Yes, sir. That's correct.

Mr. JENNER. Does that answer it?

The CHAIRMAN. Ms. Jordan.

Ms. JORDAN. Mr. Kalmbach, the last line of the last paragraph where you asked Mr. Ehrlichman to see your attorney as a courtesy, did you ask him to see Mr. O'Connor as a courtesy?

Mr. KALMBACH. I don't think I used that language, as a courtesy. I simply asked him to see Mr. O'Connor and he agreed to do so. I don't recall those particular words.

Mr. FISH. Mr. Chairman, point of clarification. Counsel, are we going to get back to the pronoun "he" on page 983 and clear that up?

Mr. JENNER. I will make an effort to do so, as to whether it can be cleared up through this witness.

Mr. SEIBERLING. Mr. Chairman, before we leave this exhibit, one other point of clarification if I may. Mr. Kalmbach was asked whether this was true and complete, as I recall, and I notice there is no reference in this exhibit to his previous testimony that he had told Mr. Ehrlichman on that date that Mr. Ehrlichman too had asked him to raise money for the defendants and that Mr. Ehrlichman had nodded his agreement. And I take it it is also incomplete to that extent?

Mr. KALMBACH. Yes, sir. To the extent, Congressman, that the items I have indicated earlier or stated earlier was my recollection, it is incomplete as to those items.

Mr. SEIBERLING. And the ambassadorships?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. It is incomplete as to all items about which you have testified and all statements made about which you have testified which are not stated in this memorandum?

Mr. KALMBACH. That is correct.

Mr. JENNER. Now, could we return then to page 983 of the edited transcripts. And Mr. Chairman, may I put this before the witness?

The CHAIRMAN. You may.

The witness understands that this is the White House version of the transcripts, the edited transcripts?

Mr. KALMBACH. Yes, sir; I do, Mr. Chairman.

Mr. RAILSBACK. Mr. Chairman?

The CHAIRMAN. Mr. Railsback.

Mr. RAILSBACK. Mr. Chairman, in reference to page 983, I believe that, Mr. Jenner, you went in yesterday to the Ehrlichman April 19 telephone conversation at which it is my recollection that Mr. Ehrlichman advised Mr. Kalmbach that Mr. Dean was also talking. And I just wonder if it might not be helpful to the committee, at least it would be helpful to me because I don't have a recollection as to what really prompted the Ehrlichman-Kalmbach telephone conversation which took place later that same day in which he did go into the funds and he taped, I think he taped—of course, he taped the conversation.

Mr. JENNER. Would you respond to Congressman Railsback's inquiry, please?

Mr. KALMBACH. Yes, sir. I think yesterday in my testimony, Congressman, I stated that the occasion for this telephone call to Mr. Ehrlichman was that we had, Mr. O'Connor and Mr. DeMarco and I had noticed in the papers that Mr. Dean had stated that he would not, was not going to be the scapegoat. And Mr. O'Connor and Mr. DeMarco suggested that I call Mr. Ehrlichman that afternoon when we were at the Madison Hotel to inquire of Mr. Ehrlichman whether John Dean was going to tell the whole truth. And that was the, that was really what, in fact, prompted my call to Mr. Ehrlichman.

Mr. RAILSBACK. May I just ask one other question? Referring to the taped telephone conversation, there is a comment here by Mr. Kalmbach, about the seventh or eighth line, "Yeah. I just wanted to run through quickly several things, John, in line with our conversation." I wonder what conversation that has reference to, if it was an earlier conversation during that same approximate period?

Mr. KALMBACH. I don't recall any earlier conversation, Congressman. I think that probably I was alluding there to our discussion on the sixth in San Clemente.

Mr. JENNER. Would you please read the whole of that particular paragraph to which Congressman Railsback has drawn your attention, the conversation.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Read it through, and I would like to ask you a question about it.

[Short pause.]

Mr. JENNER. Do you have it? Have you read it?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And directing your attention to that sentence in which you say, "I got in here last night and there was a telephone call from Mr. O'Brien. I returned it, went over there today and he said the reason for the call is LaRue has told him to ask him to call me to say that he had to identify me in connection with this, and he wanted me to

know that and so on." That's April 19. Do you recall making that statement?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. And I believe I asked you yesterday after you had read this whether, to the best of your recollection, this whole conversation which had been taped by Mr. Ehrlichman was, to your best recollection, true and correct?

Mr. KALMBACH. To my best recollection.

The CHAIRMAN. Excuse me, Mr. Kalmbach. What was the date of your conversation with Ehrlichman when you told him you were looking him right in the eye?

Mr. KALMBACH. That was on July 26, 1972, Mr. Chairman.

The CHAIRMAN. July—

Mr. KALMBACH. July 26, 1972, 3:30 in the afternoon.

The CHAIRMAN. Thank you.

Mr. SEIBERLING. Well, Mr. Chairman, one other point of clarification here. I believe that Mr. Kalmbach testified that he met with Paul O'Brien on the 19th of April, and at that point O'Brien told him—said LaRue had told him he had to name Kalmbach as having been or having participated in payments to the defendants. But, this exhibit indicates that he actually learned this the day before, the night before.

Mr. SMITH. The exhibit is April 19.

Mr. SEIBERLING. Yes, but he says—oh, I see. In other words, he said he got in last night and there was a call from O'Brien and he returned it, but you didn't return it until the following day then?

Mr. KALMBACH. That is correct.

Mr. SEIBERLING. Thank you. You went over there today. Right. Thank you.

Mr. COHEN. Mr. Chairman? Mr. Chairman?

The CHAIRMAN. Mr. Cohen.

Mr. COHEN. Could I inquire, as long as we are on this document, to have counsel refer Mr. Kalmbach to the last page of that meeting of April 19, 1973, where Mr. Ehrlichman asks if Mr. Kalmbach will tell the grand jury or the special prosecutors about a different date as to when he had the conversation, as to whether or not Mr. Kalmbach, in fact, did give an inconsistent date at the suggestion of Mr. Ehrlichman?

Mr. JENNER. Would you help me a little?

Mr. COHEN. 2217, the final page of the document.

Mr. JENNER. Yes, I have that.

Mr. COHEN. Well, I am looking at the middle of the page. Ehrlichman, "See, I don't think we were ever seen together out there."

Mr. JENNER. Do you find that, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir; I do.

Mr. JENNER. Would you respond to Congressman Cohen's inquiry?

Mr. COHEN. At the point at which Mr. Ehrlichman says, "Well, I wouldn't ask you to lie, but if you would say we talked out in California it would be more consistent with the other testimony." That's what I would like to have you comment on.

Mr. KALMBACH. Well, I understood him to say, Congressman, that he was talking about our meeting on the 6th of April.

Mr. JENNER. Now, Mr. Kalmbach, see where Mr. Ehrlichman says, "See, I don't think we were ever seen together out there?" When he said, "See, I don't think we were ever seen together out there," to what was he referring as out there?

Mr. COHEN. If we could go back up to the top of the page, he had asked you to whom you have spoken about your testimony and he says, "I would appreciate it if you would say you've talked to me in California because at that time I was investigating this thing for the President." Et cetera. I would like to know what exactly did you testify to when you went before the prosecutors?

[Short pause.]

Mr. COHEN. Mr. Chairman, if it will be of help, I will withdraw the question and take it up in my 5-minute time. And in the meantime you can look it over.

Mr. JENNER. Mr. Kalmbach, referring your attention to this taped telephone conversation, did this occur before you were about to testify?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. About to testify before what body?

Mr. KALMBACH. Before the grand jury.

Mr. JENNER. And what was the reason you called Mr. Ehrlichman in that respect?

Mr. KALMBACH. Well, that was, as I have stated, Mr. Jenner, that was at the suggestion of Mr. O'Connor and Mr. DeMarco in order to make certain that Mr. Dean was going to tell the exact truth.

Mr. JENNER. Now, drop down to the remark of Mr. Ehrlichman in which he says, and it's about 10 lines down or 8 lines down, "They'll ask you to whom you've spoken about your testimony and I would appreciate it if you would say you've talked to me in California because at that time I was investigating this thing for the President." And you responded, "And not now?" And Mr. Ehrlichman says, "Well, I wouldn't ask you to lie." and Kalmbach says, "No, I know."

Ehrlichman: "But the point is—", you interrupted, "But the testimony was in California."

What testimony was in California?

Mr. KALMBACH. I was, I think I was confused about this, what he was saying here, other than thinking that he was saying that I should testify as to my conversation with him on April 6. And I didn't know whether he meant that I should not testify as to this particular conversation.

Mr. JENNER. And you did not have the impression then that Mr. Ehrlichman was asking you not to testify about something that had actually taken place?

Mr. MANN. Mr. Chairman, point of clarification.

The CHAIRMAN. Mr. Mann.

Mr. MANN. Mr. Kalmbach, you might think of this matter as you led up to this question which I assume Mr. Cohen will ask you later, think of this in terms of the representations that Mr. Ehrlichman had been designated to investigate this case.

Mr. JENNER. Had you known prior to this time in this conversation anything about whether or not Mr. Ehrlichman had been assigned to investigate this matter?

Mr. KALMBACH. I think that from the, from the press I had known of that.

Mr. JENNER. But other than that, had you had any information or explanation or any conversation with anybody on the subject?

Mr. KALMBACH. I don't recall that I did.

Mr. JENNER. All right. Thank you.

Now, turning again to the 19th of April, 1973, did you have a meeting with Mr. O'Connor and Mr. DeMarco and Mr. Stans?

Mr. KALMBACH. That was on April 19.

Mr. JENNER. And tell us what led to that conference and where was it?

Mr. KALMBACH. Well, as I recall it, Mr. Jenner, we were requested to meet with Mr. Stans that morning, and the three of us, Mr. O'Connor, Mr. DeMarco, and I went over to his office early in the morning, maybe 9:30 or thereabouts. And the four of us met together in Mr. Stans' office. There were two items that I recall that we discussed.

No. 1 was that Mr. Stans was clearly of the memory that he had only given me \$45,000 and not \$75,000 when I had seen him on the 29th of June, 1972. And he was very positive of that to the point where I was uncertain, and I talked with the three of us on that point.

The second area he said that he had some good news for me, and at that point, whether it was Mr. Stans or Mr. O'Connor, I was asked to excuse myself from the meeting, which in fact I did. And while I was out of the meeting, that's when I returned the call to Mr. O'Brien.

Mr. JENNER. Was there any discussion during the course of that meeting about an accounting on your part of the funds that were held in the Chase Manhattan Bank and the Riggs Bank safe deposit boxes?

Mr. KALMBACH. Yes, sir. What in fact, was the good news that Mr. Stans was alluding to was the fact that he had retrieved two or three or four sheets of paper of the very full accounting that I had given to him after I had zeroed out all of my checking accounts and safe deposit boxes in the first week of February 1972. Following that zeroing out and closing of my accounts, I gave to Mr. Stans an exhaustive accounting of income and outgo from the time that he had asked me to be trustee, which was on January 14th, 1969, up until the first week of February. I had given him this accounting and retained no copy for myself, and found out later that that, or was advised by Mr. Stans later that that accounting had been destroyed, so I was, for all practical purposes, without any accounting at all for some \$2 million.

Then after this meeting on the 19th of April Mr. Stans said I have recovered three or four sheets which were torn into four pieces and were put together for Mr. DeMarco and Mr. O'Connor, which substantiated the fact that I had, in fact, surrendered, given such an accounting, although it was incomplete. It did not cover the boxes in California.

Mr. JENNER. One other question about your tape conversation with Mr. Ehrlichman. Do you recall that during the course of that conver-

sation, there was a discussion of the President would retain an \$83,000 tax refund?

Mr. KALMBACH. Mr. Jenner, it is my memory—as I think I recounted to you in a staff meeting, that this conversation is complete to that extent.

Mr. JENNER. Tell us what that conversation was, then?

Mr. KALMBACH. I recall that when I talked to John Ehrlichman this date, I advised him that we had—Mr. DeMarco and I wanted him to know that the President would receive a refund of approximately \$83,000, I think right about that time. And I just informed him of that conversation.

It is also my memory that at the end of the conversation, I wished him well and to that extent, this is incomplete.

Mr. JENNER. When you say “This is incomplete”, you are referring to the taped conversation, exhibit No. 77, before the Senate Select Committee, numbered at the top of the page, 2215?

Mr. KALMBACH. Yes, sir. And another thing, as I think about this taped conversation, I think that in that conversation with Mr. Ehrlichman, I advised him that—I told Mr. O'Connor the totality of my involvement in all areas.

Mr. JENNER. One other thing about that taped conversation. You will notice in the first line it says “conversation with Herbert Kalmbach, April 19, 1973, 4:50 p.m.”—that is 10 minutes to 5 in the afternoon. Does that square with your recollection?

Mr. KALMBACH. No, sir, it does not. I recall it was earlier in the afternoon.

Mr. JENNER. How much earlier?

Mr. KALMBACH. Well, I think it was, that we talked more like between 2 p.m. and 3 p.m.

Mr. JENNER. Mr. Kalmbach, again referring to that taped conversation, now with respect to page 2216—I think that is the second page?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And drawing your attention to the middle of the page, you say:

And it is just unbelievable, unthinkable. Now, shall I just—I will just, if I am asked by Silver, I will just lay it out exactly that way.

And then Mr. Ehrlichman says:

Yes, I wouldn't haul the President into it if you can help.

And you respond, “Oh, no, I will not.”

Do you recall that?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, I won't go into this, but you might wish to make a note to read in connection with Mr. Kalmbach's testimony the testimony of Mr. Ehrlichman before the Senate Select Committee on—do we have the dates?

It is in book 8 of your books, pages numbered at the top 2571 through 2575. It is a reference to the green book.

Mr. Ehrlichman is being examined by Senator Ervin, and Senator Ervin says to him at page 2574, near the bottom, "Yes, now you denied a while ago that you gave Kalmbach any such assurance, did you not?" That is the assurance that his activities were legal, And Mr. Ehrlichman responds:

No, sir. What Mr. Thompson asked me and what I denied was this very vivid and dramatic moment when we looked deep into each other's eyes and I said with solemn assurances that this was both legal and proper, and I made no such solemn assurance, and as a matter of fact, in what you read here, the word "period—the Senator is reading from the tape. I believe from the tape—no, I believe from the tape transcript—

here the word "period" stands out graphically

because "period" means that that was the end of the conversation, and you will notice that there is nothing in there about my assuring Mr. Kalmbach that this was either proper or legal.

And on the next page, 2575, Mr. Ehrlichman says—Senator Ervin questions him—"Well, he said he had been on it a few weeks."

"Yes, but he went on with it after this and he says he went on with it solely because you gave him this assurance."

The pronoun "he" refers to Mr. Kalmbach.

Mr. Ehrlichman:

No, sir, no, sir, he went on with it, according to his testimony, if I may respectfully disagree, because of the assurances I gave him about the propriety and legality of it which I assure you did not happen and which this conversation, I think, indicates did not happen.

Now, Mr. Chairman, ladies and gentlemen of the committee, I am going to turn with this witness to the matter of the dairy incidents.

Mr. DONOHUE. Before you go on—

Mr. JENNER. Mr. Donohue, I have a little trouble hearing you.

Mr. DONOHUE. Before you go on with another phase of it, would you clarify this for me? In exhibit 77 which you have been referring to, the top line reads "Conversation with Herb Kalmbach on April 19."

Mr. JENNER. Yes, sir.

Mr. DONOHUE. That conversation was carried on between Ehrlichman and Kalmbach?

Mr. JENNER. Yes, sir.

Mr. DONOHUE. Thank you very much.

Mr. JENNER. And that is the taped conversation.

Directing your attention, Mr. Kalmbach, to January 14, 1969, have you refreshed your recollection from your records and other documents of having a meeting with Mr. Stans on that day?

Mr. KALMBACH. I have.

Mr. JENNER. And where was that meeting?

Mr. KALMBACH. It was in Mr. Stans' office in New York.

Mr. JENNER. And you and he present?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Anyone else?

Mr. KALMBACH. No, sir.

Mr. JENNER. What did he say to you or ask you? Just give it in summary.

Mr. KALMBACH. In summary, he said, Herb, we'd like to have you act as trustee for surplus funds from the 1968 campaign, and I think he said that they were principally from the primary period.

Mr. JENNER. Was anything said about disbursements and deposits, the clearing of those with anybody?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. What did he say?

Mr. KALMBACH. He indicated or stated to me that I would be talking with Mr. Haldeman and would be receiving directions from Mr. Haldeman—I think this became even clearer later on than at this very early time when I accepted the trusteeship. But it became clear either at this time or within a matter of just a few weeks that the person to whom I was to report as to these funds was Mr. Haldeman.

Mr. JENNER. Would you tell the ladies and gentlemen of the committee the amount of those funds?

Mr. KALMBACH. Yes, sir. I was uncertain on January 14, 1962, as to the amount—I am sorry—in 1969. But it became—eventually, I received a total of \$1,098,000—\$1,098,000—in cash, which I received in two safe deposit boxes, one in New York on Park Avenue, 400 Park Avenue—410 Park Avenue, New York, the Chase Manhattan Bank Branch, for \$365,000; and some \$733,000 in cash that was received into the Riggs main office in Washington, D.C.

In addition to that \$1,098,000, there was \$570,000 that I received in a checking account established at the National Bank of North America in New York under the deposit name of "The Public Institute."

Mr. JENNER. "The Public Institute"?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. How did that come about? Was that a pseudonym or was there—

Mr. KALMBACH. No, sir, it is the name of a voluntary New York association organized under the laws of the State of New York.

Mr. JENNER. Did you organize it?

Mr. KALMBACH. No, sir, Mr. Thomas W. Evans of New York handled the documentation and paperwork involved in establishing this bank account.

Mr. JENNER. Please identify Mr. Evans.

Mr. KALMBACH. Mr. Evans is a partner in the Mudge, Rose firm in New York.

Mr. JENNER. Now, directing your attention to mid-1969, did you have a meeting with Mr. Milton Semer?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Identify Mr. Milton Semer, please.

Mr. KALMBACH. Mr. Semer—

Mr. JENNER. I am sorry. It is pronounced Semer?

Mr. KALMBACH. Yes, it is.

Mr. JENNER. Thank you.

Mr. KALMBACH. Mr. Semer is a lawyer in Washington, D.C. Shall I go beyond that, Mr. Jenner?

Mr. JENNER. Yes, please.

Mr. KALMBACH. I recall that he called me in the spring of 1969 and I had never known him or heard of him before. I think I was in the Madison Hotel at that time and he said that he wanted to meet with me and I think he mentioned in that conversation that he had been asked to see me by our mutual friend, Mr. Mitchell.

Mr. JENNER. Which Mr. Mitchell?

Mr. KALMBACH. Mr. John Mitchell, then Attorney General. I met him in the coffeshop for—

Mr. JENNER. Excuse me, Mr. Kalmbach. It would be helpful to the committee if you identified Mr. Semer further?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Did he have any relationship or contact with the Associated Milk Producers?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Known as AMPI?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us what that was.

Mr. KALMBACH. I learned of that association representation of that milk cooperative later that afternoon in a 5- or 10-minute meeting I had with Mr. Semer in the coffeshop of the Madison Hotel.

Mr. JENNER. All right. Complete the conversation, please.

Mr. KALMBACH. Mr. Semer stated to me that his client—and I am not certain whether he restricted it just to AMPI or whether he indicated there were other milk producers that he was representing—but in any event, he stated to me that they were interested in making a contribution. As I understood that and he stated to me that he had talked with Mr. Mitchell, who had referred him to me. I don't recall that he said much about his clients at that early point other than that he might have stated to me, it would be my recollection that he was talking of a \$100,000 contribution. Now, my notes indicate or show me that—

Mr. JENNER. What notes?

Mr. KALMBACH. My notes that I have surrendered to the Special Prosecutor, copies of which this committee has.

Mr. JENNER. We have those notes and they have been supplied to the committee, Mr. Chairman, in the envelope that we furnished to all members of the committee yesterday.

For the purposes of identification, Mr. Chairman, the first document consisting of three pages, I identify it by at the upper left-hand corner appears "Wednesday 4-2." I wish to identify that as Kalmbach's Exhibit No. 2, and follows]

[The document referred to was marked for identification Kalmbach's Exhibit No. 2, and follows:]

[illegible]

DATE Thursday, 4-3

7
30
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8⁰⁰ Edgout, Karen, Jr.
Ct. Mgr. of the
Maine Hotel
Cal. H.
Hubm
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(NO) TRP
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1.35
1.25
1.55
1.25
3.55
5.75
7.25
7.25
21.25
Type: 1.50
1.50

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45
9⁵⁵ out L. 1st - 2nd

10
00 10¹⁵ Miller firm
Bel. Pa. Act
Sunk 400 (NO) The Rocco Ltd
(NO) Bremer
(NO)
10³⁰ J.R.R. Busch
with Don Hyman
& Bob Ellis. Both

11
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15
30
45
Master Anderson
Joan Korman
Shirakawa
1.25
\$300,000 bond of
Frederickson handed to
TWE as "Giles by Pat
for 4-11."
Nixon "B. Hunt returned home"

12
00 12¹⁵ Mill Street
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Res. 7pm
PX
12³⁰ P. 12³⁰ 12³⁰
12⁴⁵ 12⁴⁵ 12⁴⁵
The
JRP
TWE
National Bank
of North
American
\$600,000
\$600,000
to \$700,000
Buy in DC (4-3) \$733,952.20
Buy in NYC (4-4) 1.50
Amto. to bill Del. to him
(4-4) 1632,950.70

1
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The
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National Bank
of North
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to \$700,000
Buy in DC 733,952.20
NYC 865.00
Dep. del 500,000
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day 4-4

Call:

1. Mitchell & Sons Mc May 7th.

2nd Harry Fleming
 57th St
 Trans. & Com. Flors
 P 29-6-140

Q. Bruns
 Expense

Storn Old - U.S. Rpt to Unico.

10th 4th Ectro
 C. Rigney

One
 Commission

Aug.

Sept.

Oct.

11th 1st Peter & Regina:

How is the transition fund
 coming? We did send
 \$1,100.00 in the fund which
 is the balance of the
 stock of our properties?

12th How far out of the
 money are the 3 articles
 into one claim N.Y.C.
 Will. Rev. 1000

Will. Rev. 1000
 \$583.00 to Will. Rev.
 \$500.00 more
 + any additional

12th 1st Mitchell
 & Rigney
 Club

Rev. J. M. - invited
 to date for 4-13

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

1st Peter & Regina

3 Harry Fleming
 4. Rigney & Sons - Box 360
 5. P.O. Box 83 - Rigney & Sons
 - meeting -

Call Harry Fleming:

1. Dick Fleming
 2. Peter & Regina
 3. Edgar Rigney Jr.
 4. White House
 5. Dany 147

Mr. JENNER. The next is a single sheet identified in the upper left hand corner, Thursday 6-12. That is to be marked as Kalmbach Exhibit No.3.

[The document referred to was marked for identification Kalmbach exhibit No. 3, and follows:]

[Kalmbach Exhibit No. 3]

DATE Thursday, 6-12

7 30 45 7:45 Breakfast
with Jack
Patterson

8 00 7:545
@ the
Midway
Hotel

9 00 9:00 Midway
Kangaroo

9 30 9:30 John Mitchell
@ Attorney
General's office

10 00 10:00 Call Jack Patterson
between 9 and 12
but between 10⁰⁵ and 11⁰⁵

10 15 10:15 John Mitchell
NE 20th

11 00 11:00 Joe Krueger

12 00 12:00 Camel + Buckley
Lunch

1 00 1:00 Joe Patterson

Mr. JENNER. The first document I have identified of this series of Xeroxes of Mr. Kalmbach's daily diary is a three-page document on which the date, Wednesday, 4-2, appears in the upper right-hand corner. That is Kalmbach Exhibit No. 2. The next is a single sheet of Mr. Kalmbach's diary, identified in the upper left-hand corner, Thursday, 6-12.

Mr. JENNER. The one with the date in the upper right-hand corner is the afternoon of that day and it is identified as Thursday, 6-12 as exhibit No. 4.

[The document referred to was marked for identification Kalmbach exhibit No. 4, and follows:]

[Kalmbach Exhibit No. 4]

DATE		Thursday, 6-12	
2	30	2:30 meet Samer	
	45	↓	
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	15		
	30		
3	45	3:40 for Buller	9:00 am
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4	00		FS 5:10 ad Pines -
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5	15	5:15 UAL Plane	
	30	(5D) Xerox	
	45	for FAX due	
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9	15		

Mr. JENNER. Next is two sheets, the first of which is the morning and the second of which is the afternoon. The morning is marked in the upper left-hand corner, "Friday, 6-13." That is identified as Kalmbach exhibit No. 5. The afternoon portion, identified in the upper right-hand corner as Friday, 6-13, is marked Kalmbach exhibit No. 6.

[The document referred to was marked for identification Kalmbach exhibit No. 5 and exhibit No. 6, and follows:]

[Kalmbach Exhibit No. 5]

DATE		Friday, 6-13		Name:	
7	30	7:45	Cover	7:15	Bo. 200 Ruff
	45				Bo. to 300 Ruff
	00				More deposit (W)
8	15				Bo. 200 Ruff
	30				Bo. 200 Ruff
	45				Bo. 200 Ruff
9	00	7:45	Bo. 200 Ruff	7:15	Bo. 200 Ruff
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	15				Bo. 200 Ruff
11	30				Bo. 200 Ruff
	45				Bo. 200 Ruff
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	00				Bo. 200 Ruff

[Kalmbach Exhibit No. 6]

DATE		Friday, 6-13	
3	30	Jefferson	
	45		
3	00	East - {	2:45 (1)
	15	South - {	Object case
3	30	"96"	Stener 103-250
	45	(213) 870-7228	Bridge 124 1/2
4	00	Chas 2107	Bridge 124 1/2
	15	LA 2107	Bridge 124 1/2
4	30	LA 2107	Bridge 124 1/2
	45	LA 2107	Bridge 124 1/2
4	00	LA 2107	Bridge 124 1/2
	15	LA 2107	Bridge 124 1/2
4	30	LA 2107	Bridge 124 1/2
	45	LA 2107	Bridge 124 1/2
5	00	LA 2107	Bridge 124 1/2
	15	LA 2107	Bridge 124 1/2
5	30	LA 2107	Bridge 124 1/2
	45	LA 2107	Bridge 124 1/2
6	00	6:00 AM V. Call	LA 2107
	15	6:09 AM Mountain Dr.	LA 2107
6	30	6:11 AM	LA 2107
	45	6:13 AM	LA 2107
7	00	6:15 AM	LA 2107
	15	6:17 AM	LA 2107
7	30	6:19 AM	LA 2107
	45	6:21 AM	LA 2107
8	00	6:23 AM	LA 2107
	15	6:25 AM	LA 2107
8	30	6:27 AM	LA 2107
	45	6:29 AM	LA 2107
9	00	6:31 AM	LA 2107
	15	6:33 AM	LA 2107

Mr. JENNER. Turning to Saturday, 6-29, the morning portion is identified in the upper left-hand corner, Saturday, 6-28, that is exhibit No. 7.

[The document referred to was marked for identification Kalmbach exhibit No. 7, and follows:]

[Kalmbach Exhibit No. 7]

DATE <i>Saturday, 6-28</i>				
7	30			
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	00			
8	15			
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	45			
9	00	<i>9:00 UAC #52</i>		
	15	<i>to work DC.</i>		
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	15			

Mr. JENNER. The second, marked in the upper right-hand corner Saturday, 6-28, is exhibit No. 8.

And the last two sheets covering Saturday, August 2, first portion, upper left-hand corner, Saturday, B-2, is Kalmbach exhibit No. 9. And the second sheet, which is the afternoon portion, marked in the upper right-hand corner, Saturday, 8-2, as Kalmbach exhibit No. 10.

[The documents referred to were marked for identification Kalmbach exhibits Nos. 8, 9, and 10, and follow:]

[Kalmbach Exhibit No. 8]

DATE		Saturday, 6-28	
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Handwritten notes:

- 4:45 AM
- 6:00 AM
- Res: 457-281

[Kalmbach Exhibit No. 9]

DATE	TIME			
Sat, 8-2	7:30			
	8:00			
	8:15			
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	4:00			
	4:15			

[Kalmbach Exhibit No. 10]

DATE

Sat. 8-2

(1) Mitt + Clients to meet with
Harry Hunt & Jack Kline

(2) Try to get Mitt's clients

(a) Go to place supports for
daily farmer

(b) Pres. to address gathering
in Kansas City, Mo. a
meeting of daily farmer
cooperative organized by
Mack Brainerd, Inc.
(Open date)

(c) Investigation with the
President - Mr. Cline taking
etc.

Mr. JENNER. Mr. Kalmbach, have you examined those exhibits for review and refreshing your recollection for your testimony today?

Mr. KALMBACH. I have reviewed these before this date, Mr. Jenner.

Mr. JENNER. Well, have you reviewed them again anticipating your testimony today?

Mr. KALMBACH. No, sir.

Mr. JENNER. No, sir, or yes, sir?

Mr. KALMBACH. No, sir.

Mr. JENNER. When last did you review them?

Mr. KALMBACH. Several weeks ago.

Mr. JENNER. They then refreshed your recollection?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. During the course of that conference with Mr. Semer, was anything said about any desires on the part of AMPI or the milk producers?

Mr. KALMBACH. In this first conversation?

Mr. JENNER. Yes, sir.

Mr. KALMBACH. I don't recall that there was.

Mr. JENNER. And no reference to milk price support levels in the Presidential address to the AMPI convention to come the following year?

Mr. KALMBACH. No, sir, I don't believe so at this first meeting.

Mr. JENNER. Was that subject discussed at a subsequent meeting?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right.

Did you seek to verify with Mr. Mitchell that he had referred Mr. Semer to you?

Mr. KALMBACH. I did.

Mr. JENNER. When did you do that?

Mr. KALMBACH. Shortly after this conversation with Mr. Semer.

Mr. JENNER. Did you have a conversation with Mr. Haldeman subsequently with respect to the goals or objectives of AMPI?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When was that?

Mr. KALMBACH. Again, I think it was shortly after my meeting with Mr. Semer. My conversation with Mr. Haldeman—I had several conversations between this first meeting and the eventual time when I received funds from Mr. Semer.

Mr. JENNER. Where did that meeting take place? That is, the meeting with Mr. Haldeman?

Mr. KALMBACH. I believe it was in Mr. Haldeman's office in the White House.

Mr. JENNER. And what did you say to Mr. Haldeman and he to you with respect to the objectives, if any, of AMPI?

Mr. KALMBACH. My very best recollection, Mr. Jenner, is that I wanted Mr. Haldeman to advise me of two things. Number 1, I wanted him to advise me that I could receive these funds into my trust funds, receive this contribution into my trust funds; and second, I wanted him to authorize me to arrange for meetings for Mr. Semer with certain administration people, which Mr. Semer had requested of me.

Mr. JENNER. And what did you say to Mr. Haldeman?

Mr. KALMBACH. That is what I said to Mr. Haldeman.

Mr. JENNER. Mr. Kalmbach, you have said in the first meeting with Mr. Semer the subject matter of goals was not mentioned. Was the

subject matter of goals mentioned by Mr. Semer in a subsequent meeting?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us when that occurred.

Mr. KALMBACH. I have no recollection without going through my notes at this time, Mr. Jenner, but my notes are clear that at least in one instance, and I think in more than one instance, that there were three goals that Mr. Semer's clients had.

Mr. JENNER. Before you recite those, were those goals stated to you before you had the meeting about which you have testified with Mr. Haldeman?

Mr. KALMBACH. I don't think those goals were stated to me, although they could have been.

Mr. JENNER. Tell us where—fix the time as best you can when you were advised of those goals and by whom?

Mr. KALMBACH. On August 2, my notes show that three goals were stated by Mr. Semer, goals of his clients.

Mr. JENNER. Now, where were you on that occasion?

Mr. KALMBACH. I was in Newport Beach, Calif., and met with Mr. Semer at that time.

Mr. JENNER. Was it in your office?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right, tell us what was said.

Mr. KALMBACH. The goals—

Mr. JENNER. Give as best you can the date.

Mr. KALMBACH. August 2, Saturday, August 2, 1969.

Mr. JENNER. Proceed, sir.

Mr. DENNIS. Mr. Jenner, was there a date given for the meeting with Mr. Haldeman where he talked about whether he could put the money in the trust fund?

Mr. JENNER. Yes, would you please fix that as best you can?

Mr. KALMBACH. Congressman, I don't recall that date exactly other than I do recall with certainty that I did receive clearance from Mr. Haldeman to receive these funds and also clearance from Mr. Haldeman for me to arrange for Mr. Semer to meet with certain administration people.

Mr. DENNIS. Well, it would be before this meeting where you now discuss the goals, I assume?

Mr. KALMBACH. Yes, sir.

Mr. DENNIS. All right.

Mr. JENNER. And was it following your meeting with Mr. Mitchell, in which you sought verification that he had suggested, he had referred Mr. Semer to you?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. Proceed, sir.

Mr. SEIBERLING. A further point of clarification, Mr. Chairman.

Is it germane what Mr. Haldeman's response was to these requests?

Mr. JENNER. Would you please respond to that?

Mr. KALMBACH. Yes, sir.

His response was, yes, you are to accept this contribution into your trust funds, and, yes, you can arrange for this man, Mr. Semer, to see certain people within the White House, within the administration.

Mr. SEIBERLING. Is the phrase "certain people" possible to be spelled out?

Mr. KALMBACH. I am not certain, Congressman, if I named the people—eventually, I arranged appointments for Mr. Semer with people in the White House. I think it was at that time that I talked to Mr. Haldeman, it was simply to get authorization and clearance that I could arrange for appointments for Mr. Semer to present his case on behalf of his clients.

Mr. JENNER. Present his case to whom? Did you have any particularly in mind at that time? And if so, did you mention it to Mr. Haldeman?

Mr. KALMBACH. I am just not certain if at the early time, I had a particular person or persons in mind.

Mr. JENNER. All right. Tell us about your meeting with Mr. Semer on August 2, 1969.

Mr. KALMBACH. Mr. Semer came to California and gave me \$100,000 in cash from his clients on Saturday, August 2. On that same date, wrote in my diaries, a copy of which I have in front of me, that the goals of his clients were three: One, 80 percent price supports to the dairy farmers; second, the President, they wanted the President to address a gathering, the annual convention at Kansas City the next year; and third, they wanted identification with the President—picture taking and so forth.

I want to make it clear that these were goals and what I had met with Mr. Haldeman about was simply that he agreed that I could set up appointments for this man to present the case for his clients.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, the witness has been referring to the exhibit identified as Kalmbach exhibit No. 10, which is an afternoon page of August 2, 1969.

I am curious, Mr. Kalmbach. Is that your handwriting on exhibit No. 10? That is the second page of that.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And it is X'd out. What was the occasion for X'ing it out? There is a cross in it.

Mr. KALMBACH. Yes. I have no recollection on why there was a cross on that sheet.

Mr. JENNER. All right.

Mr. MAYNE. Point of clarification, Mr. Chairman?

Mr. CHAIRMAN. Yes, Mr. Mayne.

Mr. MAYNE. Earlier, the witness expressed doubt as to whether the clients included more than AMPI. Could counsel ask him what "Milt's clients" meant to him on this exhibit 10?¹

Mr. JENNER. Would you please respond, Mr. Kalmbach?

Mr. KALMBACH. I think that I understood that they meant AMPI and possibly one or two other milk producers; I am just not certain.

Mr. JENNER. Mr. Kalmbach, you received the \$100,000, did you?

Mr. KALMBACH. I did.

Mr. JENNER. As you have testified?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Was any of the \$100,000 employed by you in making payments or delivering funds to Mr. Ulasewicz?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. For what purpose?

Mr. KALMBACH. For investigative purposes.

¹ See p. 593.

Mr. JENNER. And was any part of the \$100,000 used in connection with Albert Brewer's campaign against George Wallace in 1970?

Mr. KALMBACH. Yes, sir, I believe that it was.

Mr. JENNER. Well, do you have a recollection that it was in fact?

Mr. KALMBACH. Mr. Jenner, the funds, this \$100,000 that went into this safe deposit box in Newport Beach, we added additional funds that were brought out from the East and regarded it all as fungible and to the extent there were any funds remaining in the box at the time of the payments in 1970, they were made from these funds, that is correct.

Mr. JENNER. Now, Mr. Kalmbach, following this meeting with Mr. Semer, did you have occasion to report to Mr. Haldeman the receipt of the \$100,000 and the objectives that have been stated to you by Mr. Semer?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Fix the time and place as best you can and where it was—yes, where it was and who was present.

Mr. KALMBACH. My best memory is that it was shortly after my meeting with Mr. Semer in the first, around the middle of August, or maybe just a few days beforehand, in Mr. Haldeman's office.

Mr. JENNER. In Washington?

Mr. KALMBACH. Either in Washington or in San Clemente.

Mr. JENNER. And in either event, who was present?

Mr. KALMBACH. Just Mr. Haldeman and myself.

Mr. JENNER. What did you say to him?

Mr. KALMBACH. I told him that I had received these funds, they had been added to the trust funds under my control, and that I was going to arrange for Mr. Semer to meet with certain people in the White House. I think I mentioned Harry Dent and Jack Gleason, and could have mentioned some other names, but I have no recollection of the other names at this time.

Mr. JENNER. Identify Jack Gleason, please.

Mr. KALMBACH. Jack Gleason, I think, at this time had come over to the White House and was acting as an assistant to Mr. Dent.

Mr. JENNER. All right. Proceed with the conversation.

Mr. KALMBACH. Mr. Haldeman acknowledged that these funds had been added to the trust funds and agreed with the procedure that I stated that I was going to set up these appointments for Mr. Semer.

Mr. JENNER. Was anything said about objectives?

Mr. KALMBACH. I think the objection—I again stated the objectives that were related on this August 2d diary entry to Mr. Haldeman, he simply nodded, indicating that he understood the objectives.

Mr. JENNER. Did you advise anyone else of the \$100,000 contribution at that time, at least on that day?

Mr. KALMBACH. Yes, sir, I advised, my memory is that I advised at least two or three individuals.

Mr. JENNER. Name them, please.

Mr. KALMBACH. I think I advised Mr. Stans of the contribution and the addition to the trust fund. I think I advised Mr. John Mitchell of the contribution.

Mr. JENNER. What about Mr. Ehrlichman?

Mr. KALMBACH. And also advised Mr. Ehrlichman.

Mr. JENNER. And speaking with Mr. Stans, Mr. Ehrlichman, and possibly Mr. Mitchell, was anything said about the objectives of the contribution by you?

Mr. KALMBACH. It is my recollection that I indicated the objectives or stated the objectives to these individuals.

Mr. JENNER. No, please, Mr. Kalmbach. You are in the habit of using the word "indicated."

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Are you now stating what you said?

Mr. KALMBACH. I am now stating that it is my best recollection that I indicated—that I stated the objectives.

Mr. JENNER. Fine.

Ms. HOLTZMAN. Point of clarification.

The CHAIRMAN. Ms. Holtzman.

Ms. HOLTZMAN. Thank you.

Mr. Jenner, would you ask the witness whether Mr. Haldeman took notes in the conversation he had with Mr. Kalmbach that he has just testified?

Mr. JENNER. Would you please respond to the Congresslady's question?

Mr. KALMBACH. I am not certain. I think that he did.

Mr. JENNER. Now, turning to the spring of 1970, do you recall having a meeting with Mr. Haldeman?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. With respect to the townhouse project?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. Tell us in a few words what the townhouse project was and how it came to be identified as the townhouse project?

Mr. KALMBACH. This was what I understood to be a senatorial campaign program. I had that name for it. It is my recollection that I talked to Mr. Dent and Mr. Gleason about this program and that in the spring of 1970, I met with Mr. Haldeman and Mr. Haldeman asked me to be the principal fundraiser for this program. Now, the program was to raise funds to help finance candidates in certain senatorial races, the hope being finance candidates in certain senatorial races, the hope being that if the Republican Party could gain a net of seven senatorial seats, that again plus the President's tie-breaking vote would mean control of the Senate.

Mr. JENNER. The President was the then Vice President?

Mr. KALMBACH. Vice President Agnew's vote, yes.

Mr. JENNER. Oh, Vice President Agnew, I am sorry.

Now, was any—would you tell us a little more, how did it become known as the townhouse project?

Mr. KALMBACH. That name came about as a result of Mr. Gleason leaving—when he left the White House in June or July 1970, he moved into a townhouse in Washington as the administrator of the program, and that is where the name came from, the townhouse program.

Mr. JENNER. All right. Did AMPI make any contributions in respect of the townhouse project?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Tell us about it, please. Fix time as best you can.

Mr. KALMBACH. AMPI and other of the milk producers contributed—my records show that they contributed \$110,000 in 1970, and I cannot be certain as to the dates of those contributions.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, we will now address ourselves to the next exhibit, which I will mark Colson's exhibit No.—Kalmbach exhibit No. 11, rather than Colson.

It is one sheet containing some columns at the top.

First, in the upper right-hand corner clearly is the word "milk" encircled. And the headings are in the columns that I read from left to right, State, total and amount committed, "Total received 8/19/70."

"Received prior to 8/1970," "Balance to come."

The bottom line reading "Pennsylvania—Scott \$10,000."

[The document referred to was marked for identification Kalmbach exhibit No. 11, and follows:]

[Kalmbach Exhibit No. 11]

<u>STATE</u>	<u>TOTAL AMOUNT COMMITTED</u>	<u>TOTAL RECEIVED 8/19/70</u>	<u>RECEIVED PRIOR TO 8/19/70</u>	<u>BALANCE TO COME</u>
Utah	\$ 10,000	\$ 1,500	\$ 3,500	\$ 5,000
North Dakota	10,000	2,500	5,000	2,500
Vermont	10,000	2,500	2,500	5,000
Wyoming	10,000	1,500	3,500	5,000
Tennessee	10,000	1,500	6,000	2,500
Florida	10,000	--	--	10,000
Nevada	10,000	--	5,000	5,000
Texas	5,000	--	2,500	2,500
Indiana	10,000	3,000	4,500	2,500
New Jersey	10,000	5,000	2,500	2,500
Alaska	5,000	--	3,000	2,000
TOTAL	<u><u>\$100,000</u></u>	<u><u>\$17,500</u></u>	<u><u>\$33,000</u></u>	<u><u>\$44,500</u></u>

Supplemental:

Pennsylvania - Scott \$10,000

\$5,000

\$5,000

Mr. JENNER. Do you have that exhibit before you, Mr. Kalmbach?

Mr. KALMBACH. I do.

Mr. JENNER. Now, would you explain—would you identify this exhibit and explain it to the committee?

First, Mr. Kalmbach, under the encircled word “milk,” the xerox is indistinct. There appears some longhand lettering. Are you able to identify that.

Mr. KALMBACH. I can’t make it out, Mr. Jenner.

Mr. JENNER. Our associate member of our staff, Mr. Sharp, has identified it with the aid of others.

Would you say what that is, Mr. Sharp?

The CHAIRMAN. What it appears to be.

Mr. SHARP. The words under the word “milk” are “copy for HWK.”

Mr. JENNER. Proceed, Mr. Kalmbach.

Mr. KALMBACH. Yes, it is my understanding that this was a memo prepared by Mr. Gleason and evidently just one consistent with what Mr. Sharp has just stated, sent to me for my information.

Mr. JENNER. And you do recall receiving it?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. And it represents what, sir?

Mr. KALMBACH. Well, it represents the initial—my memory, Mr. Jenner, is that the pledge that I received from the milk producers for the senatorial campaign program was \$100,000 and this shows the States to which these funds were to be sent; what had been received up to that September 19, 1970, date, and what had been received prior to that. And then the balance left within the individual amounts yet to come.

Mr. JENNER. And the bottom portion reading “Supplemental: Pa-Scott, \$10,000.” Would you explain that, please?

Mr. KALMBACH. Yes, sir. A final record that I submitted to Mr. Haldeman in November—

Mr. JENNER. November of what year?

Mr. KALMBACH. November of 1970—indicated that the pledge from the milk producers for this program was \$110,000. Now, as to the Pa, I am not certain that I know what this means, this additional \$10,000, \$5,000, \$5,000. I just can’t state other than it must mean funds that are being contributed to that particular campaign.

Mr. JENNER. Of the \$100,000, what was the form of that contribution as to whether it was in cash or by check or otherwise?

Mr. KALMBACH. My notes from this file indicate that of the \$100,000, \$10,000 was in cash and the balance, I assume, was in checks, drawn in favor of various committees.

Mr. JENNER. You assume—is that your best recollection?

Mr. KALMBACH. That is my best recollection.

Mr. MAYNE. Mr. Chairman, a point of clarification.

The CHAIRMAN. Mr. Mayne.

Mr. MAYNE. Is all of this relating to the so-called townhouse project that you previously mentioned?

Mr. KALMBACH. Yes, sir.

Mr. DENNIS. Mr. Chairman?

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. Is this marked Kalmbach 11?

The CHAIRMAN. That is correct.

Mr. JENNER. Yes, it is.

Mr. SEIBERLING. Point of clarification, Mr. Chairman. I believe the witness said \$10,000 was in cash, the rest check? Ten was in cash?

Mr. JENNER. Ten in cash, the rest in the form of checks.

Mr. KALMBACH. That is right.

Mr. JENNER. Now, moving on to November 19, 1970, Mr. Kalmbach, do you recall having a meeting with Mr. Haldeman in his office?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And what was the subject matter of that meeting?

Mr. KALMBACH. At that meeting, I was asked by Mr. Haldeman to raise early money for the President's 1972 campaign.

Mr. JENNER. And what was your response?

Mr. KALMBACH. I accepted.

Mr. JENNER. Drawing your attention to later that month, the month of November, do you recall a meeting you attended with Mr. Colson, Mr. Nelson, Mr. Parr, Messrs. Harrison and Hillings?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And would you—we know who Mr. Colson is. Who is Mr. Nelson?

Mr. KALMBACH. Mr. Nelson at that time was general manager of AMPI, a milk producer.

Mr. JENNER. And what is Mr. Nelson's full name?

Mr. KALMBACH. Mr. Harold Nelson.

Mr. JENNER. Now, would you also identify Mr. Parr?

Mr. KALMBACH. Mr. Parr—I am not certain as to his identification other than as a representative of one of the milk producers.

Mr. JENNER. And is that David Parr?

Mr. KALMBACH. Yes, sir; it is.

Mr. JENNER. Well, you have identified Messrs. Harrison and Hillings heretofore.

Now, was Mr. Evans also present?

Mr. KALMBACH. Yes, sir, that is my recollection.

Mr. JENNER. That is the same Tom Evans you have heretofore identified?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, tell us where you met.

Mr. KALMBACH. My memory, Mr. Jenner, is that there were two meetings and I am confused in my own mind as to which was which. But I do recall a meeting with the individuals you have just named, one meeting in Mr. Colson's office and another meeting at the Madison Hotel. At that meeting, I was informed of a \$2 million pledge to the President's 1972 program and I recall—

Mr. JENNER. By whom?

Mr. KALMBACH. By those in attendance. I think it was the milk producers informed me of that pledge.

Mr. JENNER. Well, who was present at that—

Mr. BUTLER. Excuse me, Counsel, which meeting are we in? Colson's office or at the Madison Hotel?

Mr. JENNER. Would you identify and distinguish if you can?

Mr. KALMBACH. There were two meetings, Congressman, and I recall, and I am not certain as to which meeting, which was which. But I

have a memory that I was advised of the pledge of \$2 million to the President's 1972 program and my best recollection is that it was at a meeting in Mr. Colson's office in the Executive Office Building.

Mr. BUTLER. Thank you.

Mr. JENNER. Now, having attempted to refresh your recollection in that respect, do you recall a meeting in Mr. Colson's office attended by yourself, Mr. Colson, Mr. Chotiner, Mr. Nelson, and Mr. Harrison?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And when was that meeting?

Mr. KALMBACH. I think that was in December of—that would be my best recollection, Mr. Jenner.

Mr. JENNER. Is that the meeting you are now uncertain at which of the two meetings you were advised of objectives?

Mr. KALMBACH. Yes, sir.

Mr. DENNIS. Now, Mr. Chairman.

The CHAIRMAN. Mr. Dennis?

Mr. DENNIS. Thank you, Mr. Chairman.

For clarification, did we ever get a time on these two meetings in Colson's office and in the Madison Hotel before the one that we are getting down to now in December? Did we get any kind of approximation on time? If we did, I missed it.

Mr. JENNER. We will attempt to do so. I think the meeting about which he is testifying was in November, late November 1970, not December.

Mr. DENNIS. Anything we can do on time on all three of them would be helpful. I may have missed it. I just want to get the chronology.

Mr. JENNER. I share that objective, Congressman Dennis.

Fix as best you can the time of the meeting in your hotel room at the Madison Hotel attended by Messrs. Colson, Nelson, Parr, Harrison, Hillings, and Evans.

Mr. KALMBACH. It was in the late fall of 1970 and it was in—not in my suite but in another suite—not in my room but in another suite at the Madison Hotel. Now, I cannot be specific as to that meeting date, but I can be specific as to the place and the general time.

Mr. DENNIS. Thank you.

Go ahead.

Mr. JENNER. Is that the meeting at which the mention of the possible pledge of \$2 million was mentioned?

Mr. KALMBACH. That is my recollection, yes; sir.

Mr. JENNER. Tell us what was said at that meeting in the presence of those whom you have identified who attended it?

Mr. KALMBACH. At the meeting in the Madison Hotel, it is my best recollection that that had to do primarily with the procedures and mechanics to be formulated to effect the distribution of these campaign contributions into the 1972 campaign.

Mr. JENNER. What was the concern in that respect?

Mr. KALMBACH. The concern was the legalistics involved and the procedures.

Mr. JENNER. Procedures—legalistics and procedures directed toward what objective?

Mr. KALMBACH. I was advised that the—it was told to me that the milk producers had certain regulations, independent reporting requirements, and it is my best recollection, Mr. Jenner, that in talking to these individuals—and Mr. Evans was there being helpful to me in the legal side—we were discussing ways in which these contributions could be made to committees within individual States. I think we arrived at an arbitrary figure of \$2,500 per committee per milk producer co-op as the limit that would be received to any one committee to avoid any gift tax problems if any were outstanding.

We talked about holding funds within individual States that would be contributed by the milk producers, just holding those funds either for the campaign, eventually campaign in those States, or for eventual transfer to Washington.

Mechanics of that sort, including the necessity for setting up a multiplicity of committees to accommodate these contributions.

Mr. JENNER. Now, during the course of that meeting, was the subject matter of the amount of the contribution anticipated from the milk producers mentioned?

Mr. KALMBACH. I am not certain as to that meeting in the Madison, but my best recollection is that I did receive that \$2 million pledge figure when I was in Mr. Colson's office in the Executive Office Building.

Mr. JENNER. And try and fix the date, as Mr. Dennis has suggested.

Mr. KALMBACH. It was either in October, November, or December of 1970.

Mr. JENNER. Do you have a recollection in your mind that it was a meeting in Mr. Colson's office?

Mr. KALMBACH. Yes, sir, without question.

Mr. JENNER. And do you have a clear recollection as to who was present?

Mr. KALMBACH. My best recollection is that in addition to Mr. Colson and myself, there was Mr. Hillings, Mr. Harrison, Mr. Nelson, and then with less certainty—again it would be my recollection that Mr. Chotiner was there and perhaps Mr. Parr.

Mr. JENNER. Now, having identified the meeting, would you please relate to the committee the substance of that meeting and what was said?

Mr. KALMBACH. The meeting had to do first—I recall again that I was advised of the \$2 million pledge to the President's 1972 program and there was a general discussion of the mechanics to effect these contributions into the 1972 campaign. That is my best recollection as to what transpired at that meeting.

Mr. JENNER. All right.

Now, taking you to March 23, 1971.

Before I proceed with that, Mr. Chairman, ladies and gentlemen of the committee, we have an itinerary of Mr. Kalmbach's covering the period Wednesday, March 24, 1971, through Saturday, March 27, 1971. It is a two-page document entitled at the top "Itinerary/agenda" and the first date, Wednesday, March 24, 1971. It is two pages and we have identified it as Kalmbach exhibit No. 12.

[The document was marked Kalmbach exhibit No. 12 and follows:]

[Kalmbach Exhibit No. 12]

ITINERARY/AGENDAWednesday, March 24, 1971HotelDepart LAX via UAL 52
Arrive Dulles8:30 am
4:15 pmThe Madison
15th & M Sts., NW
202/483-6400

P/U by WH auto

5:30 pm Meeting w/John Ehrlichman in his office

6:30 pm Meeting w/Dan Hofgren at Washington Hilton

8:00 pm Dinner (RFC; meeting first at Suite #P/1 - Gus Levy's name)

11:00 pm After-dinner meeting (to be scheduled)

Thursday, March 25, 1971

8:30 am Meeting in coffee shop of Madison w/Tom Evans

9:00 am B'fast. meeting at the Madison with John Rollins

11:00 am Meeting with Gordon Strachan and Bob Haldeman in Haldeman's office at the WH

1:00 pm Luncheon meeting in Ehrlichman's office with Ehrlichman, Milbank and George Murphy

3:30 pm Meeting with P/M General Blunt in the Post. Master General's Office

4:00 pm Meeting in Rm. 6902 of the Department of Commerce with M. Stans and other business people

6:00 pm At the Madison (changing for dinner)

7:30 pm Dinner at the WH

11:00 pm Back to the Madison

~~XXXXXXXXXXXX~~Friday, March 26, 1971

8:30 am Breakfast meeting at the Water-
gate with M. Stans

10:00 am At the WH -- probably meeting
with Mr. Finch

12:00
--- A/F #1 leaves Andrews AFB
3:00 pm with one stop - arrives at
El Toro

Mrs. Kalmbach to p/u

Saturday, March 27, 1971

10:00 am Golf at LACC w/Mark A. Soden
and Don Martin

HMK/ah
3/24/71

Mr. JENNER. Does the witness have a copy before him, Mr. Sharp?

Mr. SHARP. Yes.

Mr. JENNER. Thank you.

What occurred on March 23, 1971, at what time of day?

Mr. KALMBACH. My best recollection, Mr. Jenner, is that on March 23, I was in California and received a telephone call from Mr. Ehrlichman in which Mr. Ehrlichman asked me to meet with him the following day in the evening in Washington and to hold open a late evening meeting date. And he stated to me that he would advise me when we met as to those whom I would be meeting at the 11 o'clock date.

Mr. JENNER. Now, you had come to Washington primarily to do what, Mr. Kalmbach?

Mr. KALMBACH. I had scheduled myself to come to Washington primarily for two functions. One was an RNFC dinner to be held on the 24th of March 1971, and then a White House dinner to be held on Thursday night, March 25, 1971.

Mr. JENNER. Now, directing your attention to Kalmbach exhibit No. 12, would you identify it, please?

Mr. KALMBACH. Yes, sir, I have a copy of it.

Mr. JENNER. Well, identify it for the committee and the record.

Mr. KALMBACH. This is an agenda, an itinerary agenda that was prepared by my secretary on the 23d, as I best recall it, preparatory to my trip on the 24th to Washington.

Mr. JENNER. And this is a true and correct Xerox copy of the original of your agenda, is it?

Mr. KALMBACH. It is.

Mr. JENNER. Now, proceeding to the 24th of March, 1971, did you have a meeting with Mr. Ehrlichman in his office?

Mr. KALMBACH. That is my best recollection, yes, sir.

Mr. JENNER. What time of day?

Mr. KALMBACH. Approximately 5:30 in the afternoon.

Mr. JENNER. How did the meeting come about?

Mr. KALMBACH. Mr. Ehrlichman, in his call of the previous day, had suggested that I come by to see him at his office at this time on the 24th.

Mr. JENNER. Forgive me if I have asked you this question: What time of day did you fix as to that meeting, if I asked you what time of day?

Mr. KALMBACH. It is, per the agenda, approximately at 5:30 in the afternoon.

Mr. JENNER. Thank you.

Were just you and Mr. Ehrlichman present?

Mr. KALMBACH. Yes, sir, that is my recollection.

Mr. JENNER. What did he say and what did you say?

Mr. KALMBACH. Again, Mr. Jenner, my best recollection is that Mr. Ehrlichman told me at this time that I was to meet with Mr. Chotiner and—I don't think he identified the man by name, but Mr. Chotiner and a representative or representatives of the milk producers that evening following the RFC dinner, and at that time, the milk producers pledge would be reaffirmed.

Mr. JENNER. What day of the week was March 24?

Mr. KALMBACH. It was on Wednesday.

Mr. JENNER. Then did you attend the dinner?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Was there a reception preceding the dinner?

Mr. KALMBACH. Yes, sir. I would understand that from this agenda.

Mr. JENNER. Well, please, you might understand it from the agenda, do you have a recollection that there was?

Mr. KALMBACH. I don't have an independent recollection that I attended the reception.

Mr. JENNER. All right.

Did you have a conversation with Mr. Chotiner that evening?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When did that take place?

Mr. KALMBACH. In the late evening, I think it was subsequent to 11 p.m.

Mr. JENNER. Was it right after the adjournment of the Republican Fundraising Dinner?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right.

What occurred?

Mr. KALMBACH. Mr. Chotiner, accompanied by Mr. Harold Nelson of AMPI, came up to my room at the Madison Hotel, and when they came into the room, Mr. Chotiner stated to me that in anticipation of the price support increase that was expected momentarily, Mr. Nelson wished to speak to me. Mr. Nelson then reaffirmed on behalf of AMPI—

Mr. JENNER. What did he say?

Mr. KALMBACH. Mr. Nelson stated to me that the earlier \$2 million pledge to the President's 1972 campaign was being reaffirmed.

Mr. JENNER. By whom?

Mr. KALMBACH. By Mr. Nelson as the general manager of AMPI, and I understood at that time that Mr. Nelson was talking on behalf of the milk producers in general.

Mr. JENNER. And did Mr. Chotiner say anything?

Mr. KALMBACH. After that initial statement by Mr. Chotiner and the—

Mr. JENNER. By Mr. Nelson?

Mr. KALMBACH. No, by Mr. Chotiner when he said in view of the impending increase in the price support level, Mr. Nelson wishes to say something to me and then Mr. Nelson reaffirmed the pledge. We then went into a discussion as to the problems involving the mechanics of effecting these contributions and there was some little discussion in that area about those problems.

Mr. JENNER. All right.

Have you exhausted your recollection?

Mr. KALMBACH. Yes, sir, I have.

Mr. JENNER. Refreshing your recollection, if it does, did Mr. Chotiner say anything about your calling and advising Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir, it does, I am sorry. Mr. Chotiner, as they were leaving, asked me to see, to relay the word to Mr. Ehrlichman the next day that I had in fact received this reaffirmation.

I want to also state, Mr. Jenner, that I have been uncertain as to whether or not, when Mr. Chotiner and Mr. Nelson came into the room, whether or not they said to me at that time that we are here at the suggestions of Mr. Ehrlichman. I don't remember if they said that or not, but it was either that they had said that then or Mr. Ehrlichman had told me earlier that I was to meet them at that time.

My best recollection is that Mr. Ehrlichman advised me earlier of this fact.

Mr. JENNER. Earlier that day?

Mr. KALMBACH. Yes, sir, that afternoon.

Mr. JENNER. All right.

Did you see Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. When?

Mr. KALMBACH. I met—I had lunch with Mr. Ehrlichman that day, on Thursday, March 25, and either just before lunch or just after lunch—whether it was at the White House mess or in his office or when we were walking from his office to the mess—in an aside to Mr. Ehrlichman, I said that I had met with Murray Chotiner and with Harold Nelson the night before and the pledge of \$2 million had been reaffirmed.

Mr. JENNER. What was Mr. Ehrlichman's response?

Mr. KALMBACH. His response was just an acknowledgement that he heard me and understood.

Mr. JENNER. Did you have any conversations thereafter with Mr. Ehrlichman on this subject matter?

Mr. KALMBACH. I don't recall that I did.

Mr. JENNER. Now, fix as best you can the, as best you can, the exact time when, as you went down the hall, you made this remark to Mr. Ehrlichman.

Mr. KALMBACH. Other than just my memory being that I had stated this reaffirmation to him in a brief aside because we were having lunch with two other people and I didn't want to talk to him in front of anyone else. I just didn't pinpoint the exact point, either before lunch or after lunch, that I advised Mr. Ehrlichman of this reaffirmation.

Mr. JENNER. But it was during the luncheon period?

Mr. KALMBACH. Either immediately beforehand or immediately afterwards, yes, sir.

Mr. JENNER. Now, Mr. Kalmbach, have you testified about this subject matter heretofore?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Before the Senate select committee and by deposition taken in *Nader v. Butz*?

Mr. KALMBACH. I have testified in several instances.

Mr. JENNER. All right. Name them, please.

Mr. KALMBACH. I have testified before the special prosecutor's office, before the grand jury, before the Senate select committee, and in depositions in *Nader v. Butz*.

Mr. JENNER. Now, the committee has, Mr. Kalmbach, a transcript of your deposition in *Nader v. Butz* taken December 13, 1973. That is your deposition taken in that case?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Do you recall that occasion?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. When you testified on that occasion, did you have the itinerary exhibit?

Mr. KALMBACH. I did not.

Mr. JENNER. Kalmbach exhibit No. 12? You did or didn't?

Mr. KALMBACH. I did not, Mr. Jenner.

Mr. JENNER. Did you have any of the diaries—your own diaries we have identified by exhibit number this morning?

Mr. KALMBACH. No, sir, I do not recall that I did. These diaries were found and supplied to the special prosecutor's office. My best memory is very early in January of this year.

Mr. JENNER. Didn't you testify by way of that deposition that you were unaware of any price support matter as of March 25, 1971, and you didn't recall any direct or indirect suggestion of a relationship be-

tween campaign contributions and governmental actions affecting the dairy industry by members of that industry on that occasion?

Mr. KALMBACH. Well, my memory of that deposition, Mr. Jenner, is that I was supplied with certain documents which served to refresh my recollection, and then subsequent to that deposition, I found all of these diaries for 1969 and 1970. I found this itinerary agenda, and all of that served and has served to refresh my recollection as to the events of the March 23, 24, and 25 of 1971. And my testimony this date is my very best recollection, with memory refreshed, of what transpired on those dates.

Mr. JENNER. When you testified before the Senate select committee in executive session on March 22, 1974, do you recall that occasion?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. At that time?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. What, if any, of the documents to which you have referred were available to you at that time?

Mr. KALMBACH. All of the documents other than this itinerary agenda, Mr. Jenner.

Mr. JENNER. And you recalled on that occasion your March 24 evening meeting in your hotel room with Mr. Chotiner and Mr. Nelson, did you not?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. And so testified?

Mr. KALMBACH. I did.

Mr. JENNER. Including the reaffirmation of the \$2 million pledge?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Now, do you recall testifying in executive session again on June 13, 1974—

Mr. COHEN. Mr. Jenner? That date you mentioned before that Mr. Kalmbach testified to before the Senate committee was March 1974?

Mr. JENNER. March 22, 1974, yes, executive session.

Mr. COHEN. Thank you.

You recall also testifying in executive session before the Senate select committee on June 13, 1974?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. Would you tell the committee, please, what documents were available to you at that time?

Mr. KALMBACH. I think at that time, Mr. Jenner, this itinerary agenda had been brought to my attention and I gave it over to the Senate select committee at that time.

Mr. JENNER. Okay.

So at the time you testified last month, June 13, 1974, you had all the documents to which your attention has been called this morning before the committee?

Mr. KALMBACH. Yes, sir. At the very last time that I saw—I don't recall whether or not—I recall giving Mr. Dorsen of the Senate select committee a copy of this itinerary agenda following my giving over to the special prosecutor's office of this copy.

Now, when that was that I gave that to Mr. Dorsen, I do not recall. But it was in June of this year.

Mr. JENNER. Thank you.

Mr. DONOHUE [presiding]. The committee will now recess until 1:45.

Mr. JENNER. 1:45, sir?

Mr. DONOHUE. 1:45.

Mr. JENNER. Thank you.

I should say to the chairman and the committee that except for one more question, I will have completed milk.

Mr. DONOHUE. Why don't you proceed and finish the subject of milk.

Why don't we wait until this question has been asked and answered?

Mr. JENNER. All right. With your permission, Mr. Chairman, and the committee.

I direct your attention, Mr. Kalmbach, to February 3, 1972. Do you recall meeting at that time with a Jake Jacobsen and Mr. Nelson?

Mr. KALMBACH. Yes, sir, and with a Mr. George Mehren.

Mr. JENNER. And would you please identify Mr. Jake Jacobsen and Mr. Mehren?

Mr. KALMBACH. Mr. Jacobsen is a lawyer. Mr. Mehren was the then newly appointed general manager of AMPI.

Mr. JENNER. All right.

Where did that meeting take place?

Mr. KALMBACH. It took place in Los Angeles, Calif.

Mr. JENNER. And who arranged the meeting, if anyone did?

Mr. KALMBACH. Mr. Jacobsen arranged the meeting.

Mr. JENNER. And what was the purpose and subject matter of the meeting?

Mr. KALMBACH. The purpose was to introduce me to Mr. Mehren and to get, for me to become acquainted with Mr. Mehren.

Mr. JENNER. And was anything said in the course of that meeting about any pledges or prospective contributions?

Mr. KALMBACH. Other than in very general terms, there was no discussion, and that is my very best recollection, during that meeting of any pledge amounts or any contributions to the campaign——

Mr. JENNER. By whom?

Mr. KALMBACH. By AMPI in specific figures.

Mr. JENNER. Was any mention made during the course of that meeting about an antitrust suit?

Mr. KALMBACH. I don't recall that there was, Mr. Jenner. There could have been some aside by Mr. Mehren at some point of the fact that antitrust action had been filed against the milk producers, but I don't recall any discussion of that, of the antitrust, anything relative to antitrust matters.

Mr. JENNER. Do you recall an occasion when Mr. Mehren asked you to go across the street, so to speak, and discuss the milk antitrust suit?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. Was that this particular occasion or another?

Mr. KALMBACH. No, sir, it was another occasion.

Mr. JENNER. What date was that?

Mr. KALMBACH. Approximately April 4, 1972.

Mr. JENNER. And your response to him was—well, where was it?

Mr. KALMBACH. May I sketch the background of this, Mr. Jenner?

Mr. JENNER. Yes, please.

Mr. KALMBACH. On or about March 16 of 1972, I met with Mr. Jenner, Mr. Nelson, and Mr. Jacobsen——

Mr. JENNER. You didn't say Mr. Jenner, did you?

Mr. KALMBACH. I am sorry. Mr. Mehren, Mr. Nelson, and Mr. Jacobsen in—I think it was Mr. Mehren's suite at the Madison Hotel. And they had asked me to meet with them as a followup of our February 3 meeting.

Prior to my meeting with them at that time, I resolved in my own mind that I didn't want to raise any funds or receive any funds from the milk producers and that I wanted to advise them that if they thought they had a commitment outstanding to the campaign for contributions, that the commitment was abrogated.

I then—I went into the meeting with those three men on or about March 16 of 1972, and advised them of those two points—one, that there was an abrogation of any pledge figure that they might have in their mind as being outstanding.

And second, I advised them I didn't want to receive any more funds from the milk producers.

Mr. DONOHUE. We must recess now.

Mr. JENNER. That is all of that conversation, Mr. Chairman.

Mr. DONOHUE. We are recess until 1:45.

[Whereupon, the committee recessed, to reconvene at 1:45 p.m., the same day.]

AFTERNOON SESSION

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. Mr. Kalmbach, did you return to California following the Republican meeting, the Republican finance or campaign dinner on the night of March 25?

Mr. KALMBACH. Mr. Jenner, I think it was on the night or the afternoon and evening of March 26.

Mr. JENNER. Twenty-sixth. All right. Thank you. What year?

Mr. KALMBACH. Of 1971.

Mr. JENNER. And you return to California on the 26th?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And that was the date following what?

Mr. KALMBACH. Well, I think I had met with Mr. Ehrlichman at 1 o'clock, and I don't have the itinerary, agenda with me, Mr. Jenner, but I think I met with Mr. Erlichman on Thursday, the 25th at 1 o'clock for lunch, and it was at that time, either just immediately before or immediately afterwards that I told him, in an aside, that the \$2 million pledge had been reaffirmed to me the night before.

Mr. JENNER. Now, you have already testified about that this morning?

Mr. KALMBACH. Yes, sir, I have.

Mr. JENNER. Now, when with respect to that conversation did you return to California?

Mr. KALMBACH. I think, as I say, it was the next day that I returned to California aboard Air Force One.

Mr. JENNER. Now, you did return aboard Air Force One. Who was aboard the plane?

Mr. KALMBACH. In addition to the President and the traveling staff, there were a number of passengers including myself. I remember that Congressman Holifield sat next to me in the aft section of the airplane as a passenger on the way to California.

Mr. JENNER. Was Mr. Haldeman aboard?

Mr. KALMBACH. Yes, sir, he was.

Mr. JENNER. Did you meet the President on that occasion?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Would you describe that to the committee, please?

Mr. KALMBACH. Well, my best recollection, Mr. Jenner, is that it was oh, halfway to California or thereabouts when Mr. Haldeman came back to the aft section and motioned me to come forward, and the President wanted to say hello to me. I then went forward and met with the President and Mr. Haldeman was also in attendance at that short meeting, conversation.

Mr. JENNER. What did the President say to you?

Mr. KALMBACH. My best recollection is that he congratulated me, he said words to the effect that Bob has been telling me your success in your fundraising efforts and that we talked politics a bit. I think he asked me about San Clemente and the status of the property. In general, just a very general conversation, Mr. Jenner.

Mr. JENNER. All right, Mr. Kalmbach, I am afraid I confused you at the tail end of this session this morning when I was attempting to hurry and so I want to ask you about another event.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Directing your attention to April 4, 1972, did you have occasion to have a conversation with George Mehren on that day?

Mr. KALMBACH. I did, sir.

Mr. JENNER. All right. Would you tell us who initiated the call and the circumstances preceding it and tell us what the conversation was?

Mr. KALMBACH. Yes, sir. My very best recollection is that Mr. Jacobsen, Jake Jacobsen—

Mr. JENNER. You have identified him this morning?

Mr. KALMBACH. Yes, sir. An attorney representing the milk producers. I think AMPI. Mr. Jacobsen shortly before April 4, stated to me that Mr. Mehren would like me to speak to him and asked that I call Mr. Mehren's home in San Antonio, Tex. This I did. According to my very best recollection, Mr. Jenner, on or about April 4, 1972. I called Mr. Mehren.

Mr. JENNER. Where was he?

Mr. KALMBACH. He was in San Antonio, Tex. I was in Washington, D.C., in my office at 1701 Pennsylvania Avenue.

I called Mr. Mehren, and when he came on the phone, it became evident to me that the reason that he had asked me to call him was that he wanted me to intercede with the White House on behalf of AMPI, particularly relative to the antitrust proceedings then outstanding against the milk producers. Now this is my very best recollection. Mr. Mehren stated to me in that conversation that the milk producers, AMPI, were prepared to make a substantial additional contribution to the campaign and I had the sense in that conversation that he had the checks or the funds at hand to make that substantial additional contribution. And then he led into this request that I go over to the White House and intercede on behalf of the milk producers in their antitrust problems.

I replied to Mr. Mehren that consistent with what I had told Mr. Mehren and Mr. Nelsen and Mr. Jacobsen on March 16 in his suite at the Madison, not that I would not do as he requested, that I would not do anything to be of assistance. I just indicated, just again, just confirmed what I had said on March 16, that I would do nothing further as far as the milk producers were concerned, that I didn't want their funds, and that closed the conversation and he rang off somewhat abruptly.

Mr. JENNER. Now, Mr. Kalmbach, as I recall your testimony, you said during the course of your testimony you had occasion to make a long-distance telephone call with an RNC credit card, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And the RNC is Republican National Committee?

Mr. KALMBACH. No. It is RNFC, Republican National Finance Committee and I think, Mr. Jenner, on this call that I made to Mr. Mehren, I think probably I used our phone within the office so I probably didn't use an RNFC credit card at that time. I would use it normally when I was in the hotel or from a pay phone.

Mr. JENNER. Did Mr. DeMarco also have an RNFC credit card?

Mr. KALMBACH. No, sir. He would use mine when it was appropriate.

Mr. JENNER. Use your credit card?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Mr. Kalmbach, in the report of the Joint Committee on Internal Revenue Taxation, issued April 3, 1974, on page 65 and 66 the following is stated:

The staff made extensive efforts to examine the telephone records of Mr. DeMarco to determine if he made any calls to Mr. Newman during this period. Mr. DeMarco told the staff that all calls relating to President Nixon's legal affairs were charged to a Republican National Committee credit card held by Herbert Kalmbach. The staff did examine the telephone records of the Kalmbach, DeMarco Law Firm and found no listing of any telephone calls to Mr. Newman.

And on page 66, it reads at the top—

Mr. DeMarco did not know the number of the Republican National Committee credit card. However, the staff did locate records of the card through the Republican National Committee and Mr. Kalmbach. In fact, the credit card was not issued to Mr. Kalmbach until May 1969. From that time through 1970 only one call to Mr. Newman was listed, and that call was made April 16th, thus no record exists to the staff's knowledge, of any calls to Mr. DeMarco to Mr. Newman early in 1969.

Now, what I wish to ask you, sir, is, is it true, is Mr. DeMarco's statement true, that all calls relating to Mr. Nixon's legal affairs were charged to a Republican National Committee credit card held by you?

Mr. KALMBACH. Mr. Jenner, I know that Mr. DeMarco used the RNFC credit card from time to time to make calls. Now, whether or not all calls relative to work on behalf of the President was charged to that number, I don't know.

Mr. JENNER. Did you have an occasion to use your Republican National Finance Committee credit card and in connection with the personal affairs, legal affairs, of President Nixon?

Mr. KALMBACH. My calls, Mr. Jenner, that I used that card on, I would call the White House, either call San Clemente or Washington

and would use it for whatever purposes I had, relative to campaign finance, anything having to do with the White House, including matters in which I was, assignments I was involved with for the President personally.

Mr. JENNER. Now, Mr. Kalmbach, you testified also I believe yesterday that you did, you and your firm did, submit statements with respect to disbursements or expenses relative to your representation of President Nixon personally in his personal legal affairs?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Did you have a conversation with anybody with respect to your authority or an agreement that you would submit those expenses for payment?

Mr. KALMBACH. I had a conversation—several conversations that I can recall over the years, Mr. Jenner.

Mr. JENNER. With whom?

Mr. KALMBACH. With Haldeman and with Mr. Ehrlichman wherein they authorized the use of the RNFC card for calls to the White House and calls to contributors throughout the country.

Mr. JENNER. Did that also include, did that authority also include, the matter of using that credit card in connection with the President's legal business?

Mr. KALMBACH. I felt that it did, Mr. Jenner, and I felt that the calls relative to the President's personal work were so infrequent that most of the calls that I would make to the White House I would have one or two people to talk to and maybe in my conversation with Mr. Ehrlichman I would touch on something relative to the President's work. But, then would touch on other things having to do with other political assignments.

Mr. JENNER. All right, now, I was directing your attention to the subject matter of submitting statements.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Respecting legal expenses and the disbursements for payment by the President.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And I asked you whether there had been, and if so with whom, an agreement that you would do so? You have already testified of your conversation with Mr. Ehrlichman with respect to your not charging legal fees. Now, was the matter of submission of disbursements and expense statement likewise discussed?

Mr. KALMBACH. My memory, Mr. Jenner, is that although we did charge the President for certain of our costs, and out-of-pocket expenses, by no means did we charge him with all costs and out-of-pocket expenses. There were some charges that we made and were paid by him and Mr. Ehrlichman was aware generally of that practice and authorized us to follow that practice.

Mr. JENNER. Forgive me, Mr. Kalmbach, and ladies and gentlemen of the committee. Mr. Nussbaum was drawing my attention to a note and I didn't hear the latter part of your answer. Did you respond to that portion of my question as to whether there had been an agreement or an arrangement with regard to your submitting some disbursement and expense statements?

Mr. KALMBACH. Yes, sir. And it is my very best recollection, Mr. Jenner, that in talking to Mr. Ehrlichman, while they were very appreciative of the fact that we would not charge the President for personal work, personal legal services, that it was understood that when we felt it appropriate and proper we were to charge the President for our costs and expenses and as I have stated earlier, we did not charge him for all costs and expenses incurred, but for some such costs and expenses for which we were reimbursed.

Mr. JENNER. Mr. Kalmbach, when you and Mr. DeMarco organized your firm, what year was that?

Mr. KALMBACH. That was in 1967.

Mr. JENNER. What was the size of that firm; that is, the number of lawyers at that time?

Mr. KALMBACH. At the outset I think there were five, four or five lawyers.

Mr. JENNER. As of January 1, 1974, how many lawyers were there?

Mr. KALMBACH. Oh, approximately 23 lawyers, 20 to 23 plus student clerks.

Mr. JENNER. And the volume of your business escalated, according, that is, from 3 lawyers to 15 to 20?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Mr. Kalmbach, do you remember an incident in which Mr. Ehrlichman telephoned you with respect to your going to Las Vegas with respect to a matter involving Lawrence O'Brien, usually known as Larry O'Brien, Chairman of the Democratic National Committee?

Mr. KALMBACH. I do, sir.

Mr. JENNER. Now, fix as best you can when that occurred.

Mr. KALMBACH. My very best recollection, Mr. Jenner, is that in early September of 1972 I received a call from Mr. Ehrlichman.

Mr. JENNER. Where were you?

Mr. KALMBACH. I was at the Los Angeles Country Club that time.

Mr. JENNER. All right, now, you proceed to tell us everything that happened in that connection in chronological order, giving time and place, where you were and what occurred.

Mr. KALMBACH. Yes, sir. And I want to again say this is my very best recollection as to this occurrence. I was at the Los Angeles Country Club. I was paged on the house phone. I picked up the phone and Mr. Ehrlichman came on the line from the White House, in the White House, or he could have been in San Clemente, one place or the other.

And the summary of what was stated is as follows: That he said, Herb, are you on a safe phone or a secure phone.

I said, John, I am on a house phone here at the club. And I said I can call you back on a pay phone if that's what you wish. He said, well, maybe you had better do that. So I went in the lobby and called him, using my Republican National Finance Committee credit card—called him at the White House. That's my best recollection. He then came on the line and said Herb, we would like, I think he said we, he could have said I, but my best recollection he said we would like to have

you go up to Las Vegas, see Hank Greenspun and plant a story in the Las Vegas Sun on Larry O'Brien. He has IRS problems and you have a pencil and paper. And I said yes, I do. And he said, well, will you take this down. So then he recited 3 or 4 years, my best recollection is that they were immediately preceding this time, and amounts. He gave an amount opposite each year, and as I remember it, the amounts were under \$5,000 for each of those years. And he mentioned the name, he said the name of this corporation, it's a California corporation that pays him these funds and it sounded like Dupar and I just have never been able to recall the name of the company and he said, I would like, we would like, to have you go up and plant this story on Larry O'Brien.

So, that is about the end of that conversation. And I told him I would get back to him. That's my memory. And hung up the telephone.

The next day, or very soon thereafter, I tried to, in certain reference books and the law library in Newport Beach, I tried to find the company. I thought, for some reason, I had the feeling that it was in the San Fernando Valley area, but I couldn't locate it and I remember I called Frank DeMarco in our Los Angeles office and I told him of this assignment and asked him if he could help me locate the company. And he was not able to do so. And I, it is my best recollection, that he also checked books of registry to see if we could find the company. I resolved at this early point that I would not do as I had been asked by Mr. Ehrlichman first I—I was concerned about the propriety of doing this and second, there was an uncertainty about it, the whole thing, the flavor of it. I just resolved I wouldn't do it.

I had occasion to see John Mitchell some time later and I can't—I have done my best with Mr. Jenner and Mr. Sharp to pinpoint this in my own mind, but I have been able to do it. I saw Mr. Mitchell and I remember John Mitchell said, Herb, when are you going to plant that story on O'Brien. And I just turned aside from it. And then I have a recollection of also seeing John Ehrlichman and John Ehrlichman said words to the following effect, he said, I think he said that I am being pressured or something about this story on O'Brien, and I said, John, I just, some words to the effect that that just isn't for me, and I just indicated to him without more that I would not go forward on it, and he just simply shrugged and didn't, didn't urge it upon me any further. And that, Mr. Jenner, is about the sum and substance of that occurrence.

MR. JENNER. Now, Mr. Kalmbach, now who is—you said Hank Greenspun. Who is he?

MR. KALMBACH. He is the owner and publisher of the Las Vegas Sun in Las Vegas, Nev.

MR. JENNER. And what did you understand when Mr. Ehrlichman asked you, as you have testified, that you should go to Las Vegas, see Hank Greenspun to plant a story about Larry O'Brien.

MR. KALMBACH. Well, I simply understood that this was—that Larry O'Brien had IRS problems on this income, and I took it to mean that this was income which had not been reported and that I was being

asked to see Hank Greenspun and have that planted, some derogatory statement, derogatory statement or story against Larry O'Brien and I didn't want to do it.

Mr. JENNER. Plant it where, Mr. Kalmbach?

Mr. KALMBACH. In Mr. Greenspun's paper, the Las Vegas Sun.

Mr. JENNER. Is he the owner and publisher of the Las Vegas Sun?

Mr. KALMBACH. Yes, sir. He is.

Mr. JENNER. Had you become acquainted with him prior to this event?

Mr. KALMBACH. Yes, sir, I had.

Mr. JENNER. Mr. Kalmbach, you in due course were indicted were you not?

Mr. KALMBACH. Yes, sir, I was.

Mr. JENNER. Indicted for what?

Mr. KALMBACH. I pled guilty to two offenses.

Mr. JENNER. State to the committee what they are.

Mr. KALMBACH. The two offenses, one was a felony. The felony was occasioned by the fact that I was involved in this what has been known as the town house program, the senatorial campaign program of 1970, and the offense was that this was a committee for which a chairman and a secretary-treasurer had not been appointed and that was the felony.

Mr. JENNER. And you were guilty of that?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. What was the other?

Mr. KALMBACH. The other offense was a misdemeanor, and the misdemeanor was occasioned by my being the one to relay a commitment from Mr. Higby of the White House to Ambassador Symington a commitment of an eventual European ambassadorial appointment, and my relaying of that commitment made me liable for this misdemeanor.

Mr. JENNER. All right, now, I wish to ask you a few questions about those subject matters. In the course of your discharging your duties and assignments as vice chairman of the Republican Finance Committee, state what your office was?

Mr. KALMBACH. In 1972?

Mr. JENNER. Yes.

Mr. KALMBACH. Yes, sir. It was associate finance chairman from February 15 to April 7, 1972.

Mr. JENNER. All right, and prior thereto you were also raising funds. What was your connection in that regard?

Mr. KALMBACH. From November of 1970 until February 15 of 1972, I was principal fundraiser for the 1972 campaign, but wholly without title.

Mr. JENNER. Now, turning to the matter of Ambassador Symington—

Mr. KALMBACH. Yes, sir?

Mr. JENNER. Prior to January 1969 or early in January 1969, was Ambassador Symington's name on a list of persons who had been substantial contributors?

Mr. KALMBACH. He was on the list of contributors to the campaign; yes, sir.

Mr. JENNER. Was that list furnished to anybody, to your knowledge?

Mr. KALMBACH. Yes, sir. My best recollection is that the list was compiled by Mr. Stans, who had been the finance chairman for 1960, or the 1968 campaign and the list was transmitted by Mr. Stans to Mr. Peter Flanigan in the Pierre Hotel in New York.

Mr. JENNER. Now, was there, do you have a recollection as to why this particular, his name in particular, was on that list, apart from the fact he was a potential contributor?

Mr. KALMBACH. I think it was a combination of things, Mr. Jenner. No. 1, he and his wife, Marcy, had been contributors. I don't know if substantial, because I don't know what amount they gave the 1968, but had been contributors in the 1968 campaign. He had been active, I think, in the President's 1960 campaign. His wife's aunt, Helen K. Frick, had been a substantial contributor over the years. Mr. Symington had also been finance chairman for Maryland in 1968 and co-finance chairman for the President in the general campaign in 1968. All of these factors together made it possible for him to be listed on this list sent by Mr. Stans to Mr. Flanigan.

Mr. JENNER. Was there any understanding that this list—his name was also on the list because he had expressed an interest in an ambassadorship?

Mr. KALMBACH. Yes, sir, that is correct. He had expressed an interest to me and it is my best recollection, he had expressed the interest to Mr. Stans several times in the eventual ambassadorial appointment.

Mr. JENNER. Now, did an occasion arise in the early fall of 1970 when you received a call from Ambassador Symington?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. He was then Ambassador to Trinidad, is that correct?

Mr. KALMBACH. That is correct.

Mr. JENNER. Give me your best recollection as to when that telephone conference took place?

Mr. KALMBACH. My best recollection is that Ambassador Symington called me on or about the 10th of September 1970, either from Trinidad or from his home in Maryland.

Mr. JENNER. Was there any discussion at that time about his coming to California?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Please state what it was.

Mr. KALMBACH. Ambassador Symington had—may I give some background to this, please?

Mr. JENNER. Yes, please.

Mr. KALMBACH. Ambassador Symington, following his appointment to Trinidad in 1969 from time to time would be in touch with me by telephone. He would see me from time to time, and it became increas-

ingly clear that he was interested in a more important, larger ambassadorial post. This lead up to this telephone call, as I say, in early September, and in that call he asked me, he said, Herb, I'm going to be back and I will be in Maryland on or about the 15th or so and it's worth my while for me to take an airplane from Friendship out to Los Angeles and just to have lunch with me and I will go back to Baltimore that evening if you can work out your schedule. I said, well, if you are willing to do that, I will be glad to have lunch with you.

So, on or about September 16, 1970, he flew out from Baltimore. I picked him up at the Los Angeles Airport about 11 or 11:30. We drove into Los Angeles, parked at the California Club and went on over to our office which was then at the Crocker Citizens Plaza. We spent 15 or 20 minutes there and I remember I introduced him to two or three of my partners and then we went on over to the California Club about 12 or 12:15, 12:30 for lunch. We sat down and began having lunch and began our discussion and he told me about his life in Trinidad and indicated to me early on that the humidity in Trinidad, that it was not conducive to his wife's health, and that he was, again felt that he should have been appointed to a European post instead of to Trinidad in light of everything that he and his family and all had done. He then—

Mr. JENNER. Had done?

Mr. KALMBACH. Over the years, both financially and working as the finance chairman and that sort of thing.

Mr. JENNER. In the various campaigns you have already told us about?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Thank you. Proceed.

Mr. KALMBACH. He then said that Herb, I would like to ask you on this matter of your appointment to a European post, he was urging me to support him on that and I said, well, Fife, of course I will support you, and I would assume that you have had good marks as an ambassador in Trinidad, and I will support your candidacy for a European appointment. I said, now, Fife, while you are here I want to tell you about a program I am involved in right now which is in senatorial campaigns, and I would like to know if you and Marcy would agree to contribute to this program, which is being directed out of the White House and is something that the White House feels is very important. He said, Herb, on that score, what I am willing to do is, Marcy and I will pledge to you a contribution of \$100,000 to the President's campaign in 1972. Now, if you want to take half of that and put it into the senatorial campaign program and half into the 1972, it doesn't make any difference to me. It is whatever you and the White House want to do. But, the totality of our pledge is \$100,000.

I acknowledged what he had said, and he said, but there's one thing I want you to do. He said, before this pledge is firm, I want you—I

want to know that I have a commitment to a European ambassadorialship, or ambassadorial appointment.

I said, well, Fife, I have no authority to make any such commitment and have not made any such commitment to anyone, but my standard procedure has been, and this is the case before and after this meeting, was when some prospective contributor had expressed an interest in an ambassadorial appointment, I would tell him that I would support him, I would act as a reference, and that I would support his candidacy for an appointment.

But, that was, that was the extent of it. There was no commitment.

He said, well, I appreciate that, Herb, but I am going to have to have more than that. I want. I want this commitment from Bob Haldeman's office. And he said, will you go to the phone right now and call Bob and tell him what I am requesting and then come back and tell me what he says. Well, I got up from the table, and this is about 1:30 or thereabouts, and I went to the house phone and called the White House, 456-1414, and when the operator came to the line, she said, well, Mr. Haldeman is with the President in Chicago. And before—as is the nature of the White House operation—before I knew it, Larry Higby's voice came on, Larry Higby being Mr. Haldeman's deputy, and I said, Larry, here is the situation, I am sitting here with Fifi Symington, and I recounted exactly what I have just related. And the Ambassador wants a commitment for a European appointment, hopefully for 1971, but in any case, he wants a firm commitment before his pledge of \$100,000, \$50,000 now and \$50,000 later becomes firm and Larry said, well, Herb, where are you?

And I gave him my number at the California Club and he said, I will call you back just as soon as I can. So, I went back to the table and sat down with the Ambassador and within 15 to 30 minutes, the waiter came over and touched me on the shoulder, and I went over to the house phone again and Larry Higby was there again and he said, Herb, the word is go, lock it up.

So, that meant to me that there was a commitment. And I went back to the Ambassador and I said, Fife, you have got your commitment. And he was very pleased and he said, Herb, the pledge is firm.

I then recall I took out a little slip of paper and he was—he wanted to talk about what possible posts might be available and he went down a little laundry list of posts, and he excluded the major posts, but we talked about the medium-sized posts, and arranged them in his order of preference and he kept it in his wallet. Then I took him to the airport and said goodbye to him, and he flew off to Baltimore, and that was the extent of that meeting on September 16. And as I said, my involvement in that, as relaying that commitment, was the misdemeanor offense to which I pleaded guilty.

MR. JENNER. Now, Mr. Kalmbach, did you make notes of that conference?

MR. KALMBACH. Yes, sir, I did.

MR. JENNER. Mr. Chairman, ladies and gentlemen of the committee, you will find in the materials delivered this morning a 2-page longhand

memo on ruled paper. For purposes of identification, Mr. Chairman, I will read the first paragraph of those longhand notes: "September 16, 1970, at 11:10, met Fifi Symington at LAX," which is the Los Angeles International Airport "UAL No. 51 from Baltimore." May that document, Mr. Chairman, be identified as Kalmbach exhibit No. 13?

The CHAIRMAN. It will be so identified.

[The document referred to was marked for identification Kalmbach exhibit No. 13, and follows:]

[Kalmbach Exhibit No. 13]

September 16, 1970 @ 11¹⁰ - met Fifi Symington @ LAX (UAL # 51 from Baltimore).

Took him to lunch @ cc - after taking him by the LA office to meet Fifi + Pms.

Over lunch, we talked about two matters:

1. Skindinav's role in the Caribbean (he will be seeing Henry Kissinger + Gerd Hauge in DC on Sept 17th).

2. His (Fifi's) desire for a better spot. His preference is in the following order:

Spain
Portugal
Italy
Belgium
Holland
Switzerland
Norway
Germany
France

Deadline for
Assignment - End
of 1971.

His wife, Martha F. Symington,
 ("Mummy") is a niece of Miss Helen
 Clay Frick & would be the one making
 any contributions to the Program. Fife
 says that he will find out if Miss Frick
 can see me in NY on Th. Sept 24th.

Good Fife I want 50 this year and
 50 in '72 (in addition to the 16 he's
 already given JN). Also, that I'm
 going to hit Miss Frick for 50 (with
 credit to be given her for what she's
 already given to JN).

Will be in Baltimore until Th of next
 week (26th) and can be reached at

(301) 252-2661

(301) 252-3460

} res.

Martha F. Symington

J. Fife Symington, Jr.

Ambassador of the United States of America

Post Office Spring 23111

Mr. JENNER. Mr. Chairman, may I say that we did have these in order and I am afraid that some of them have gotten out of order.

Ms. HOLTZMAN. Mr. Chairman, could you repeat that?

The CHAIRMAN. Would you kindly repeat that for the committee?

Mr. JENNER. It's a 2-page memorandum on ruled paper, letter size, and the first paragraph of the first page reads: "September 16, 1970 at 11:10, met Fife Symington at LAX" and that's the Los Angeles International Airport "UAL," United Air Lines "No. 51 from Baltimore."

Mr. COHEN. Mr. Chairman?

Mr. Jenner, could you just clarify one thing? Mr. Kalmbach has testified in the chronology of events of that date they discussed the possible assignments after he received the phone call of everything is go, lock it up. But apparently according to the exhibit, it seems to come before that discussion. I just wonder if you could clarify that while you are at that point.

Mr. JENNER. Yes, as soon as all the members indicate they have the exhibit I will do so, Mr. Cohen. Thank you.

May I proceed?

All right.

Directing your attention to Kalmbach exhibit 13, do you have a copy before you, Mr. Kalmbach?

Mr. KALMBACH. Yes, sir; I do.

Mr. JENNER. And is that a true and correct Xerox copy of the original of the document?

Mr. KALMBACH. It is.

Mr. JENNER. Is it in the same condition, that is the original, as reflected by this exhibit, as it was when you made the memorandum?

Mr. KALMBACH. It is.

Mr. JENNER. Is the memorandum in your handwriting?

Mr. KALMBACH. It is.

Mr. JENNER. And is it intact as of the time you made it?

Mr. KALMBACH. It is.

Mr. JENNER. Now, Congressman Cohen directed your attention to an aspect of this exhibit. Do you have his inquiry in mind?

Mr. KALMBACH. I do.

Mr. JENNER. Would you respond to it, please?

Mr. KALMBACH. Yes, sir, Congressman. I wrote this memo I think probably either immediately after I said goodbye to the Ambassador or the next day just for the file. Now, it doesn't have any relationship, I grant you, to the sequence of events. But, the sequence that I have

testified to, was, the sequence, and I just wanted here, Congressman, to pin down for my own memory, the dates and the times.

Mr. JENNER. Now, Mr. Kalmbach, did you at a subsequent time in September 1970, have a further conversation with Ambassador Symington in New York City?

Mr. KALMBACH. In 1970?

Mr. JENNER. Yes, sir.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Can you recall the date?

Mr. KALMBACH. No, sir, I cannot. But, it was later in the month following the midmonth meeting with Mr. Symington.

Mr. JENNER. And what was the subject matter of that conference?

Mr. KALMBACH. I think simply, Mr. Jenner. That my best recollection is that Mr. Symington just recounted to me the fact that he had met in Washington. I don't know whether he met with Mr. Haldeman. I think it was with Mr. Haldeman, or it could have been with Mr. Flanigan, one or the other, and that Mr. Symington had related to me that it was a good conversation and it meant to me, Mr. Jenner, that there had been a confirmation of what we had understood at our meeting at the California Club on the 16th of September.

Mr. JENNER. Did you thereafter receive a letter from Ambassador—or did you write a letter to Ambassador Symington?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. And did you receive a response from Ambassador Symington?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, the letter to which the witness has now referred from him to Ambassador Symington is on the letterhead of Kalmbach, DeMarco, Knapp, and Chillingworth, dated September 26, 1970. It is addressed to Ambassador Symington and the leaf tag is Herbert W. Kalmbach; in longhand, it says, "Herb." H-E-R-B.

The response is on letterhead, Port of Spain, personal and confidential, September 28, 1970, addressed to Herbert W. Kalmbach. The leaf tag is "Most sincerely, J. Fife Symington, Jr., Ambassador."

Mr. Chairman, may I identify those two documents by exhibit numbers? The letter of Mr. Kalmbach to Ambassador Symington dated September 26, 1970, is Kalmbach exhibit No. 14 and the response by Ambassador Symington, dated the 28th of September, is Kalmbach exhibit No. 15.

The CHAIRMAN. Those documents will be so identified.

[The documents referred to were marked for identification Kalmbach exhibits Nos. 14 and 15, and follows:]

[Kalmbach Exhibit No. 14]

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ROBERT H. BLOCH, JR.
ROBERT H. MORRISON
HAROLD C. GREENBERG
EDWARD D. J. SCHENKMAN
FRANK L. RHODES
WILEY C. PROST
JAN B. WOLLEN
WILLIAM A. FERR
BARRY B. THORALL
THE B. HARTERS
ALAN J. MORGAN
ROD PATTERSON SMITH

September 26, 1970

The Honorable J. Fife Symington Jr.
American Ambassador
Embassy of the United States
of America
Port of Spain, Trinidad

Dear Fife:

A very brief note to thank you for the thoughtful ashtray memento that you presented me with when we were together in Los Angeles last week. Also, I want to express my thanks and the thanks of all concerned for your generous pledge to the program we discussed.

This letter is being written subsequent to our conversation in New York on Wednesday night and I was happy to hear of your meeting in Washington earlier in the week. Hopefully, Barbara and I will be visiting you and your wife some time before the 1972 campaign. We would like very much to arrange such a visit.

Please let me know if ever there is any way in which I can be of help or further assistance.

Best regards,



Herbert W. Kalmbach

HWK:mrp

[Kalmbach Exhibit No. 15]

Port of Spain

Personal and Confidential

September 23, 1970

Mr. Herbert W. Kalmbach
1801 Avenue of the Stars
Los Angeles, California 90067

Dear Herb:

The two words "Thank You" cover a lot of ground. When I look back over the last 10 days all I can say is, "Thank God for you and for your interest in those of us who are trying to carry on for the President." I am still stupified and dumbfounded by the marvelous and efficient manner in which you went to bat for me. Everything certainly worked out magnificently at the White House - all due to the ground work you laid. You cannot imagine how it fired my spark plugs to get an opportunity to see the President and bask in that terrific personality for a few minutes. I saw Bob Haldeman and I turned him in to the details which I had given Dr. Kissinger, stressing the potential for helping with the negro vote in the up-coming election if some gesture were made toward the English speaking Caribbeans.

A most wonderful part of our trip was the flight out and having that delicious lunch with you in Los Angeles. It certainly was the most expensive lunch either of us attended, I hope, but I know it was the most productive session I have ever had. Again, your friendship is responsible for the whole thing and I am looking forward to the future with confidence and particularly to one of those first 5 on the list. Again, a thousand thanks and remember that Marsie and I would love to have you down here any time to liven up our life. We will be away from October 9 to November 3 and will be hot at it thereafter.

Most sincerely,

J. Fife Symington, Jr.
Ambassador

P. S.: Incidentally, I know you will be pleased to hear that
I was able to spring my new DCM from Bern, Switzerland

Done: ^{43C} 9/11/74

8

by calling Ambassador Shelby Davis direct. Shelby is an old Princetonian and a good friend. Apparently Peter Moffat, former Ambassador Grew's grandson) is the guy and from all accounts I am lucky to get him. This is confidential but he will be coming sometime in January, I hope. JFS.

Mr. JENNER. Mr. Kalmbach, having directed your attention to those two letters, did you write the letter and transmit and mail the letter identified as exhibit 14, being your letter to Ambassador Symington dated September 26, 1970?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And that is your longhand written, "Herb," H-E-R-B, as a leaf tag on that document?

Mr. KALMBACH. Yes, sir; it is.

Mr. JENNER. Directing your attention to exhibit 15, being the letter of September 28th to Ambassador Symington, did you receive the original of that letter?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And was it signed?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Do you recall—this happens to be a copy of a copy.

Mr. KALMBACH. It is my best recollection that I did in fact receive the original of this letter and that it was signed "Fife."

Mr. JENNER. Now, did you have occasion to raise this subject matter with Mr. Haldeman at a subsequent date?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. What date?

Mr. KALMBACH. I can't be certain on that, Mr. Jenner, but it was subsequent, of course, to this exchange and subsequent to the meeting in Los Angeles with Mr. Symington. But I can't be certain. As is reflected in the notes that I have given over, not only to the Special Prosecutor's office but to this committee, my habit was, on something like this, to put it under the checklist opposite a name and Fife Symington's name was under the Bob Haldeman, John Ehrlichman, and several other checklists from this time forward.

Mr. JENNER. Would it help your recollection as to whether this meeting with Ambassador Symington occurred on or about the 5th of October 1970?

Mr. KALMBACH. Sir?

Mr. JENNER. Does the date, October 5, 1970, refresh your recollection as to when you met with Ambassador Symington?

Mr. KALMBACH. Or with Mr. Haldeman?

Mr. JENNER. With Mr. Haldeman, I am sorry.

Mr. KALMBACH. Yes, sir. That would be consistent with my memory, that I met him on or about that date.

Mr. JENNER. Where did you meet him?

Mr. KALMBACH. It would be my memory that I met him in his office at the White House in Washington.

Mr. JENNER. And were just the two of you present?

Mr. KALMBACH. I am not certain whether it was just the two or whether either Mr. Higby or Mr. Strachan were present. There was no particular rhyme or reason to it. Sometimes I would meet with Bob alone.

Mr. JENNER. All right. To the best of your recollection, will you recount to the committee what was said at that meeting?

Mr. KALMBACH. To the best of my recollection, at that time, I confirmed again with Mr. Haldeman, and it would be my best recollection that I met with him again, but confirmed with Mr. Haldeman that we had outstanding commitments to Mr. Symington and also to Mr. deRoulet.

Mr. JENNER. And what was his response, if he made any?

Mr. KALMBACH. His response was to acknowledge the commitments and to state to me that they would be met.

Mr. JENNER. Now, did a time come, Mr. Kalmbach, when you had misgivings about whether the commitment would or would not be met?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When was that?

Mr. KALMBACH. Well, the misgivings really escalated through 1971, and particularly through the summer and into September of 1971.

Mr. JENNER. No appointment had been made?

Mr. KALMBACH. No, sir.

Mr. JENNER. Were you hearing from Ambassador Symington in the interim?

Mr. KALMBACH. Very often.

Mr. JENNER. On this subject matter?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, did Mr. Peter Flanigan have any part in this matter in 1971?

Mr. KALMBACH. Yes, sir, he did.

Mr. JENNER. Will you please relate that to the committee?

Mr. KALMBACH. Yes, sir, my clear recollection on that, Mr. Jenner, is that I—Bob Haldeman referred me to Peter Flanigan. He says, Herb, you are going to have to handle it with Pete: why don't you go over and see him and just take care of it?

So I said all right.

So I met with Mr. Flanigan and I remember so clearly that I told Peter that we have a commitment outstanding to Fife Symington and to Vincent deRoulet. And Pete Flanigan's reaction was as follows: He said, well, Herb, that is just not possible. We can't give a commitment and you know that.

I said, well, it may not be possible, but it was done and we live up to our word.

And he was in high dudgeon about this and I was bothered about it because I felt that the word of honor coming out of Bob Haldeman's office must be lived up to. And I indicated that to Pete as forcefully as I could. But he made the strong point that, almost in a laughing way, that you just can't make commitments.

I said, well, Peter, I don't care whether you can make them or not; the fact of the matter is that these commitments were made from Bob Haldeman's office and you talk to Bob about it, and this is to be met, because it is a matter of our word of honor.

That was about as far as I got in that meeting.

Shall I go on, Mr. Jenner?

Mr. JENNER. Yes, please.

Mr. KALMBACH. That went on into the summer. I would meet with Pete Flanigan, oh, once or twice, but with the same general—he was very negative on both of these individuals. I think it was a personality thing. But he was constant on this, right into early August.

Mr. JENNER. And what eventually came about, Mr. Kalmbach?

Mr. KALMBACH. Well, eventually, I was—in the sequence here, Mr. Jenner, should I go into the other?

Mr. JENNER. Well, not in detail, but just give the overall and as to how it ended up.

This is Symington.

Mr. KALMBACH. Eventually, what happened, Mr. Jenner, is that I was authorized and directed by Mr. Flanigan, and Mr. Haldeman concurred in this, to give the money back to Mr. Symington—to Ambassador Symington and to Ambassador deRoulet and in point of fact, I thought if they are not going to meet their word, this is the only thing we can do.

So I went to see Fife Symington, and I said, Fife, it looks like we may not be able to do this, and we want you to know that we want to return the funds.

He said, Herb, I don't want the funds, I've got all I need in this commitment, and I am flat on that. And he was a little irritated about it, and he made it just coldly clear. And I had to be honest and say, yes, you do. So that was it.

Next I went to see Mr. deRoulet and spoke to him about it——

Mr. JENNER. About what?

Mr. KALMBACH. About his commitment.

Mr. JENNER. What was that commitment?

Mr. KALMBACH. His commitment was similar to Ambassador Symington's, that he in fact had given 150 in 1970 and a 100 to be given in 1972. And I also went to Mr. deRoulet and offered to return his 50 so that we would be square—at least put him back as much as I could in his original position.

And he said, well, Herb, as far as I am concerned, I am just pleased and honored—Linda and I are pleased and honored to be helping the President and, of course, I would never think of having you return this money.

I remember, too, he said at that time, Herb, maybe it would be helpful if I gave another \$25,000 or \$50,000. I said, not on your life. You have given—you pledged 100 and you got a commitment and you don't give any more money. You have done what you said you would do. I just told him that.

Mr. JENNER. Well, Mr. Kalmbach, in as few words as you can, would you tell us how the commitment to Ambassador Vincent deRoulet arose?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And your part in it.

Mr. KALMBACH. Ambassador deRoulet had become our Ambassador to Jamaica in 1969. I had become a friend of his and he had indicated to me, stated to me several times his interest in a larger post when it was felt that he was——

Mr. WIGGINS. Mr. Chairman——

The CHAIRMAN. Mr. Wiggins.

Mr. WIGGINS. There are some of us concerned about whether Symington got his money back? Did he get it back?

Mr. KALMBACH. He did not. He refused it.

Mr. JENNER. Proceed.

Mr. KALMBACH. And Mr. deRoulet, whenever I saw him, which was somewhat frequently and would correspond with him, he indicated he would like a larger post when the President in the White House felt that he was capable of such a larger post. In the late spring or early summer—I think it was——

Mr. JENNER. Of what year?

Mr. KALMBACH. Of 1970. I met with Mr. deRoulet, I think in New York, but I am not certain on that. At that time, I talked to him about the senatorial campaign program. Now, he had not, to my knowledge, been in touch with Mr. Symington, but he said to me that he and Linda would contribute \$100,000 to the President's campaign in 1972, that if you want part of it now for this program, that is fine, but we will just pledge that.

He said, now, Herb, before the pledge is firm, what I would like to have you do is talk to Maury Stans and to Bob Haldeman, find that I am not on the blackball list, that I am, that the feeling is that I have been doing a good job and there is no reason why I would be blocked from a more meaningful appointment.

And I said, of course I will do that.

My memory is that I checked with Mr. Stans and checked with Mr. Haldeman, and both of them indicated that as far as they knew, there was no reason why he wouldn't at a later date be appointed to a larger post.

Mr. JENNER. Is this what Mr. Haldeman said to you?

Mr. KALMBACH. Yes, sir, it is.

Mr. JENNER. All right. Do you recall the date when that statement was made to you by Mr. Haldeman?

Mr. KALMBACH. No, sir, I don't, but there is another part to that conversation.

Mr. JENNER. All right.

Mr. KALMBACH. I recall that in talking to Mr. deRoulet, he said, Herb, how do you want it? You want 50 for this senatorial part of the campaign? How do you want it? Do you want it in cash or shall I draw up checks for several campaigns?

I said, I will just have to get back to you, Pedge, which is his nickname.

When I talked to Bob Haldeman, I said, Bob, Pedge wants to know how I should take this 50. Should I send it in checks to Jack Gleason to have him route them in the normal course or cash, and it is my clear, clear recollection that Bob Haldeman said to me, he said, take it in cash, Herb, and take cash whenever you can get it.

So I relayed that to Ambassador deRoulet when I saw him. I relayed, one, that I would appreciate it if he would give me his \$50,000 in cash; and second, I'd cleared the fact that he was not under any blackball or he was not barred from the later, larger appointment. And I so relayed that to him.

He then gave me \$50,000 in cash in Los Angeles, which I added to my trust funds.

Mr. JENNER. Did you receive a letter or did you write Ambassador deRoulet a letter in May of 1970?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. May 12th of 1970?

Mr. KALMBACH. I can't recall the date of that letter, Mr. Jenner.

Mr. JENNER. Now, did you have a fundraising list? I will identify that exhibit in a moment, Mr. Chairman and ladies and gentlemen.

Mr. Kalmbach, did you have a 1970 fundraising worksheet?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And did you have a memo to the file in connection with that in May of 1970?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, I have three exhibits which I will identify. The first exhibit is a two-page sheet in longhand with a series of underlinings drawn across the paper. At the top of the first page, there appears the following, and this is only for the purpose of identification. There is a number and then it says, "W. Clement Stone, 250" and there is an arrow pointing upward and the figure "250" following it. There is also a telephone number in parens (213) 626-, I think 8621.

The second exhibit is a longhand memo, two pages, on ruled paper, the same as the ruled paper of a previous exhibit I identified. The top line of that reads, "To: 1970 contributions file; May 10, 1970."

The third exhibit is a letter on the letterhead of Kalmbach, DeMarco, Knapp, and Chillingworth, dated May 12, 1970, from Herbert W. Kalmbach, signed "Herb" to Ambassador deRoulet.

Mr. Chairman, the contributor list I have marked and identified as Kalmbach exhibit 16. The longhand notes on the ruled paper I have marked as Kalmbach exhibit 17; and the letter on the letterhead of Mr. Kalmbach's firm as exhibit 18.

May they be so recognized?

The CHAIRMAN. They will be so identified.

[The documents referred to were marked for identification Kalmbach exhibits Nos. 16, 17, and 18, and follow:

May 12, 1970
Page 1 of 2

PIER TCHANTI on 5-12-70

VPIER TCAANTI on 8-12-70		
	KENNETH WASH (21) 710-7100	25 ↑ 2
43-15	Wayne McMan (21) 710-7100	25 ↑ 2
43-17	Albert H. Gordon (21) 710-7111	25 ↑ 2
43-18	Roscoe Pickett	25
43-19	Arthur L. Perry	25
43-20	David K. Wilson (21) 710-7100	25
43-21	Ned Gerkey	25
43-22	William Casey	25
43-23	DeWitt Wallace	25
43-24	Robert McCalloch	25
43-25	Charles McKim	25
43-26	Frank K. Greenwall (21) 710-7100	25
43-27	Benson Ford	25
43-28	Claude Blide	25
43-29	Jack Miller	25
43-30	John M. Scrutcheon (21) 710-7100	25
43-31	Foster McCarty	25
43-32	Bernard Johnson	25
43-33	F. K. Meyerhouser	25
43-34	A. C. Nelson	25
43-35	John and Spencer Olin	25
43-36	Charles Parson	25
43-37	JOHN RAY KATHRYN	25
43-38	Elmery Bobbs	25
43-39	William Lason	25

742
(110)

Total 3,375 ¹³⁹⁵
HF & DI (1000 + 1000 + 25) ¹⁶⁷⁵

4.5. Direct Test ✓, 100% at 100°F + 30% (above 100°F)

[illegible]

67. ~~Lillian P. Jones~~ (212) 288-3865 or (212) 831-1884

→ Re: (516) MA 6-1231 n. 30 (20-35)

after 5 but before 6 $\frac{30}{100}$

Her apt: 66 tel + Pen (635 Park Ave)
~~East~~ 9th floor

High 1000

→ History of the American Literature - 19th century

V. Fifth Symptom

203

Page 1 of 1

May 12, 1970
Page 2 of 2

Tele. No.	Name	Amount
	1. [56S] W. Clement Stone	250↑ 250
	2. [28K] John King	250↑ 250
	3. [49R] John Rollins	250↑ 250
	4. [65S] Sam Wily and Charles Wily [5-11-70] [Said 10 but withdrew]	0
	5. [66P] H. R. Perot [5-11-70]	250↑ 250 [1000]
	6. [3A] Walter Annenberg	100↑ 50
(412)471-8860	7. [52S] Richard Scaife [Reconfirmed Commitment on 7-16-70]	100↑ 100
	8. [43P] David Parr [Milk Producers--in for 100 1+3 M in 1972 Ex prod]	100↑ 110
	9. [30L] William Liedtke [JAG says mention Milton Mandel-broker in NYC]	100↓ On 7-8
	10. [16F] Henry Ford	250 [260]
	11. [11D] Vincent de Roulet [5-8-70]	50↑ 50 + 50 in '72
(213) RI9-2536	12. [53S] Mrs. Blanche Seaver [5.]	50
	13. [51S] Henry Salvatori [at 5-15] [6-9-70 at Los Angeles Club]	50↑ 50

Tele. No.	Name	Amount
14. [50R]	Fred Russell [4-25-70]	50 ↑ 50
15. [9D]	Shelby Davis [Rush On ↑ 2]	50 150
16. [59W]	Arthur K. Watson	50 ↑ 50
17. [13F]	Kenneth Franzheim [New Zealand Frank Shakespeare 6-24 at 2:30]	50
OK; (215)985-1600 18. [45P]	J. Howard Pew [Sun Oil Co.] [Harry Princeton Davis Res: (215)527-2244 [Says he'll Come in]	50 ↑ 50
19. [14F]	Max Fisher [5-20 JAG says use Harold McClure; Fisher, Bugas]	50
(216)861-3810 20. [55S]	Kent H. Smith [JAG S said he would get up 50]	50 (100)
(914)W01-9214 21. [1A]	Robert H. Abplanalp [6-11 at 10:30 Sec'y: Jane Rigby with Bob and Bill Griffin]	25 ↑ 25
(919)441-2661 22. [10D]	Walter Davis [will come in at 25 says JAG; JAG saw him]	25 ↑ 25
(212)751-6464 23. [38N]	Howard Newman [at 15] " M ickey", liberal. Will be in NY July 22, 23, 24, 27, 28 Call Sec'y for appointment; gone to P[C]uily(?) and Europe]	25
24. [20G]	Kingdon Gould	25 ↑ 25
25. [8C]	James Crosby [4-17-70 in Nassau]	25 ↑ 5 + 20 (80)

Tele. No.	Name	Amount
	John Moore	10 ↑ 10
(212)RE7-2711 26. [37M]	Thomas J. Morrison [10/15/70 (212) UN.1-4938]	25
27. [25H]	John P. Humes	25 ↑ 25
28. [12D]	Guilford Dudley	25
29. [35M]	J. William Middendorf (50)	25 ↑ 23
30. [22H]	Robert Hill	25 ↑ 5
(412)281-3392 31. [17F]	Miss Helen Clay Frick [Shld be good-has put up 10-15? 6-15 t/c week]	25
(213)276-4177 32. [27K]	Willard W. Keith [Miss Delatone] 5-6 Candidate at 2500-5 each	25 ↑ 15
(212)838-3288 33. [47P]	Richard Pistell [212 PL 9-4650 Br # 6-12 at Plaza 812 5th Ave. NYC]	25 ↑ 25
(212)758-2345 34. [2A] [at 5-15]	Robert O. Anderson [In Roswell(505)622-5283; ARCO in Philly (215)735-2345 ROA Box 1000 (63)? (505) 622-3140]	25 ↑ 50
(412)565-2019 35. [48R]	Willard F. Rockwell, Jr. [will come in]	25 ↑ 50
(412)565-2014	V.P. Jim Daniell	140
(408)624-6600 36. [57S]	Dudley Swim [Is in for 25 (Cash); Set for July 13th at 4:30]	25

Tele. No.	Name	Amount
ofc. (713)883-3585 37. [6B] res. (713)883-2939	Edgar W. Brown, Jr. [shoot for 100--spends 250 per year (Beaumont)]	25 ↑ 50 (7-8 in Houston)
38. [42P]	Thomas Pappas	25 ↑ 50
39. [4B]	Loren Berry [will do 50 - call him.]	50 ↑ 50
40. [23H]	Clement Hirsch [5-16-70]	25 ↑ 25 + 25 in '72 (175) 1968 <u>327</u> 2295

Tele. No.	Name	Amount
	^a Pier T o lenti [on 8-12-70]	↑ 20
	Kenneth Rush [on 7-31 at 4 p.m. mtg. in Bonn + Commitment] Anna Chennault	2
	41. [24H] Wayne Hoffman [5-19 at LACC, on 6-16 Committed to 5]	25 ↑ 5
C5-15	42. [19G] Albert H. Gordon [(212)770-7111, BU 8-2251; Saw him in NYC 6-4-70]	25 ↑ 25
	43. [46P] Roscoe Pickett [will be good for 25]	25
(35?)	44. [31L] Arthur Lipper [forget it until later 6-23 JAG says "out" Lipper Inc. best advice returned funds?]	25 ↓ 0
[35?] (615)291-9150 [50]	45. [63W] David K. Wilson [615-352-7090]	25 (52)
(212)752-6000	46. [18G] Ned Gerritty [cash - Geneen's guy] [work for 50] 6-24 at 11 a.m.	25 ↑ 50
(212)838-4600 [at 5-15]	47. [7C] William Casey [50-100,000 (On 6-23 in Europe)]	25
[at 5-15]	48. [58W] DeWitt Wallace [Hobart Lewis 6/12 at 2:30 OK but anonymous]	25 ↑ 30
(213)776-2900	49. [33M] Robert McCulloch	25
(213)274-7755 [at 5-15]	50. [32L] Charles Luckman [6/30/70 CL agreed to go on 25 --wants to see and GSA son involved]	25 ↑ 25 HD (105) 15 to JM [5] expects me to call again in late fall if add'l help is needed

Tele. No.	Name	Amount
[at 5-15] 51. [21G]	Frank K. Greenwall [(212) YU 6-9500, PL 5-8189 - TE 8-8000]	25 ↑ 10
(313)322-3000 52. [15F]	Benson Ford	25
(50) 53. [62W]	Claude Wilde [Gulf Oil (Cash) Got Commitment at WH 7-16]	25 ↑ 25
54. [36M]	Jack Mills [Tobacco Mtg w/JAG in DC on 6/26/70]	25 ↑ 25
(212)867-0250 55. [54S] [at 5-15]	John M. Shaheen [(212) 867-0250 50 is apptd to Fed Int Adv Bd Van Alstyne]	25 ↓ 0 (60)
Minn.: (414)868-3168 56. [34M]	Foster McGaw [Miss Van Schaick (312) 869-2580 (T/C) 5-26 (Yes)]	25 ↑ 25
<u>NEXT ENTRY CROSSED OUT</u>		
(713)622-1400 57. [26J]	Bernard Johnson [LBJ's Crony-Dallas or Houston Houston]	25 ↓ 0
(612)224-5452 58. [60W]	F. K. Weyerhaeuser [St. Paul]	25
(312)465-4400 59. [39W]	A. C. Nielson, Sr. and Jr. [5-26 at 5:30 accepted pledge]	25 ↑ 25
(312)405-4405 60. [40J] after 5:30	John and Spencer Olin [(212)572-2267 Saw him in NYC 6-4-70]	25 ↑ 25
(212)MU2-5700 61. [44P]	Charles Payson -- Mrs. Payson [ofc: 972-0333 (212) 90 Park Ave. at 40th 29th floor] [Res (212) LE 4-8472 Mtg. at 5:00 pm 6-10 Res (212) (LI) (516) MA 7-0172 Mrs. Thompson at (212) TR 9-0300 Chas. Payson ofc. MU2-5700 Mrs. Chas. S. Payson, 748 Madison Ave., (NYC) c/o Payson & Gra(o)sk	25 ↑ ⁽⁷⁵⁾ 25

5

Tele. No.	Name	Amount
62. [61W]	John Hay Whitney [5-17-70 negative per V. deR.]	25 ↓ -0- (crossed out)
(212)TE8-3434 63. [5B]	Elmer Bobst	25 ↑ 5 -20
(212)PL9-1306 res.	[5-21-70 at Metro Club]	
(2f1)449-6074 lake		
(914)CE2-3141 64. [29L]	William Lasdon	25 ↑ 5 -20
	[5-21-70 Metro Club]	
(25)		(35)
		= 307
	Total	3,375 <u>1395</u> 1,675
65.	David Mahoney [OK with RHF and JDE (shoot for 25)]	
66.	Arnholt Smith [OK with RHF and JDE (shoot for 25) ENTRY CROSSED OUT]	
67.	Lillian Phipps [OK with JDE-RHF-etc (shoot for 50)] (212)288-3865 or (212) 831-1884 Patty Waltman, Sec'y Res: (516) MA 6-1231 or 30 (50-25) after 5 but before 6:30 25 Her apt: 66th and Park (635 Park Ave. 9th Floor)	
Moore 25		
Crome 50	(7 East Annex)	
Lear 50	(Harry Prinseton Davis -- Pew's man)	JAG says "scratch" on 7-7
	Don Kendall (10)	
	J. Fife Symington	
		May 12, 1970 Page 2 of 2

May 10, 1970

(To: 1970 Contributions File)

Re: Meeting with Vincent de Roulet

Had good meeting with Vincent de Roulet and reached the following understanding:

(a) He will "pledge" to give us \$10,000 over the next three years (ending in 1972); would prefer to give 25 in '70, 25 in '71 and 50 in '72. but will give 50 this year and 50 in '72 if we would so prefer.

(b) The mission discussed for this year (1970) would be for him to physically hand over Embilio Chelto to H2 in DC drawn in front of certain Committee.

(c) He (Pledge) would like to have my "sponsorship" for an appointment to one of the following posts at some time in the next 3 years to 3 years.

(a) Secretary for Protocol

(b) Envoy

(c) Spain

(d) Portugal

(e) Brazil

(f) Argentina

(b) No commitment was made to any of these. It was agreed that I would talk to Murray + HCH + after advising them of our conversation and after being certain of no negatives. I'm to go advise Pedge this since he would then become formal.

(c) Pedge will contact me on Weds (5-15) + will tell me of his talk with Pedge + I'll ~~also~~ tell him of the quote figures for Mrs Payson + Josh. I'll also tell him of my thoughts re Len Washburn.

(f) Any contact from Pedge is to come.
Plenty anonymous.

[Kalmbach Exhibit No. 18]

LAW OFFICES
KALMBACH, DEMARCO, KNAPP & CHILLINGWORTHSUITE 900 • NEWPORT FINANCIAL PLAZA / 550 NEWPORT CENTER DRIVE
NEWPORT BEACH, CALIFORNIA 92660
TELEPHONE (714) 844-4111HERBERT W. KALMBACH
FRANK DEMARCO, JR.
SHERWOOD C. CHILLINGWORTH
W. "TOD" DEPAUL
A. "BOB" SCHWE
R. "ART" M. OLSON, JR.
ROBERT H. MORRISON
RICHARD C. GREENBERG
THOMAS Q. PECKENBAUGH
TERRY L. WOODS
GARLEY C. PROBY
ALAN R. WOLEN
WILLIAM A. KEAR
LARRY B. TRALL
ERIC W. MARTENS
RALPH J. MORGANLOS ANGELES OFFICE
801 WEST BETH STREET - SUITE 1900
LOS ANGELES, CALIFORNIA 90017
TELEPHONE (213) 925-2124OF COUNSEL
JAMES H. KNAPP
JAMES H. O'CONNOR

May 12, 1970

The Honorable Vincent de Roulet
American Ambassador
Jamaica
American Embassy
Kingston, Jamaica, W.I.


Dear Pedge:

Words fail me in trying to express my thanks and the thanks of everyone in the party for the wonderful hospitality that you and Linda extended to us over the several days that we were in Jamaica. It was simply a magnificent experience and I'll always be appreciative. Thanks, also, for the beautiful cigar case and for the book, Jamaica.

The understanding reached on the subject discussed is clear and I'm certain that you and Linda will look back in later days to a truly wonderful eight years of service to the President and to the Nation.

Again, our thanks to you both for everything.

Sincerely,


Herbert W. Kalmbach

HWK/ss

Mr. JENNER. Now, turning your attention to exhibit 16, Mr. Kalmbach, about nine lines down on that page appeared "Vincent deRoulet, 5-8-70, with a figure 50, with an arrow pointing upward, followed by a figure 50 again.

Would you tell us what those upward arrows are?

Mr. KALMBACH. That means an upcheck. In other words, it was a favorable meeting. He gave me a pledge.

Mr. JENNER. And what is the significance of 50 following the 50 separated by the upcheck?

Mr. KALMBACH. Well, I think following that arrow pointing upward, it was 50 plus 50. Then there was an "in," and I think that "in" was completed in 1972. So 50 in 1970 and 50 in 1972.

Mr. JENNER. Now, turning to exhibit No. 17, which is a longhand memorandum dated May 10, 1970, entitled "To: 1970 contribution file," do you remember meeting with Vincent deRoulet?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. To what meeting does that refer?

Mr. KALMBACH. That is the meeting that I have recounted, Mr. Jenner, and I am not certain whether it was in New York or in Los Angeles, but it was the meeting when I met with Mr. deRoulet, the summary of that meeting I have recounted earlier in this testimony.

Mr. JENNER. All right. When did you you make this memorandum?

Mr. KALMBACH. This was dated May 10.

Mr. JENNER. Is the memorandum in your handwriting?

Mr. KALMBACH. It is.

Mr. JENNER. This is a Xerox, but is the Xerox a true and accurate reflection and duplication of the original memorandum?

Mr. KALMBACH. It is, sir.

Mr. JENNER. Was the original in your handwriting?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Is it in the same condition now as it was when you made it?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And does this exhibit correctly reflect that fact?

Mr. KALMBACH. It does.

Mr. JENNER. Turning your attention to the letter identified as exhibit 18, a letter dated May 12, 1970, from you to Ambassador deRoulet, do you have that before you and in mind?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. I call your attention to the second paragraph. Before I do that, is this a true and correct copy of the original letter?

Mr. KALMBACH. Yes, it is, and as I read this, I wonder myself whether the meeting with Ambassador deRoulet couldn't have been in Jamaica instead of New York or Los Angeles.

Mr. JENNER. All right. You mailed this letter, did you?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. The second paragraph reads :

The understanding reached the subject discussed is clear and I am certain that you and Linda will look back in later days to a truly wonderful eight years of service to the President and to the nation.

Do you have that before you ?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. What is the understanding to which you make reference in that letter ?

Mr. KALMBACH. The understanding is what Ambassador deRoulet had talked to me about; namely, that he wanted to be appointed to a larger post and was looking forward to being in an ambassadorial post not only for the remainder of the first term, but presupposing reelection, through the complete second term of the President's presidency.

Mr. JENNER. In that connection, Mr. Kalmbach, with whom had the understanding been reached? Other than yourself? If anybody.

Mr. KALMBACH. The understanding was between Ambassador de Roulet and myself on the understanding that I would clear this with Bob Haldeman and Maurice Stans.

Mr. JENNER. All right, did you do so ?

Mr. KALMBACH. I did.

Mr. JENNER. Tell us when you did it, where you were, and who was present.

Mr. KALMBACH. Again, my very best memory is that within a reasonably short time after this meeting with Ambassador deRoulet, I met with Maury Stans and Maury Stans just, from what he knew, indicated that he saw no hindrance or no bar to a future larger appointment or larger post for Ambassador deRoulet, and that was the extent of his comment at that time. My memory is clear that I advised then Secretary Stans of the commitment and the conditional manner in which it was given and that he just told me he saw no bar to a future larger post for the Ambassador.

I then, either before or afterwards, spoke to Mr. Haldeman and recounted essentially what I have just stated, with the addition that I cleared with Mr. Haldeman the question of the manner in which these funds were to be received. In reading through this longhand, I notice that Ambassador deRoulet wished to make his contribution in the form of cashier's checks to insure anonymity, but indicated that he would give in whatever form it was desired. So I wanted to clear that with Bob Haldeman and it was at that very time that Bob Haldeman said, at that time in cash and take cash any time you can get it.

Mr. JENNER. Now, the second page of your longhand notes, the top paragraph reads: "(d) No commitment was made to any of this. It was agreed that I would talk to Maury"—that is Stans?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. "And HRH"—that is Mr. Haldeman?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. "—and after advising them of our conversation and after being certain of no negativity, I am so to advise Pedge"—his—what is that word?

Mr. KALMBACH. The "Pledge" is followed by a period. "His pledge would then become firm."

Mr. JENNER. His pledge would then become firm?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And your conversations which you have just related with Mr. Stans and Mr. Haldeman were pursuant to the notes I have just read to you?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Now, just tell us what finally occurred? I think you have indicated largely in part the Ambassadorship commitment did not eventuate into terms of discussion, correct?

Mr. KALMBACH. No, sir. No, sir, it did not, and I recall that Ambassador Symington indicated that because of the humidity and what not, it was his intention to resign and return from—

Mr. JENNER. I am talking about Ambassador deRoulet now.

Mr. KALMBACH. As to Ambassador deRoulet, even though, with all my urgings upon Mr. Flanigan and Mr. Haldeman, he was never appointed to another post and he has since resigned and has returned to the United States.

Mr. JENNER. Mr. Chairman, I have marked as Kalmbach exhibit No. 19 a single sheet, also on ruled paper, the top line of which reads, "On September 21–22–23 in Las Vegas—confirmed."

May the exhibit be recognized with that number?

The CHAIRMAN. It will be so identified.

Mr. JENNER. Directing your attention to that longhand note, is that in your handwriting?

Mr. KALMBACH. It is.

Mr. JENNER. When did you make it?

Mr. KALMBACH. I would think—it is my best recollection that I made that note on or about September 23, 1970.

Mr. JENNER. Now, Mr. Kalmbach, the top line as I have read it ends with the word "confirmed."

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Was it confirmed?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. To whom?

Mr. KALMBACH. I again confirmed this order of preference and the countries listed—

[The list referred to was marked for identification Kalmbach exhibit No. 19, and follows:]

[Kalmbach Exhibit No. 19]

On Sept 21-22-23 in Paris - Cong. Minut.

Minut de Roulet wants the
following:

Secy of Process

Spain

Portugal

Italy

Belgium

Argentina

Brazil

(Charles Meyer is
in the Latin American
desk)

Mr. JENNER. To whom?

Mr. KALMBACH. To Mr. Haldeman at the White House.

Mr. JENNER. All right. You had a person-to-person conversation?

Mr. KALMBACH. Person-to-person, and also, it is my very best recollection, Mr. Jenner, that I wrote a letter to Mr. Haldeman on this subject including these countries of posts in the order named.

Mr. JENNER. Have you supplied us with that letter?

Mr. KALMBACH. I do not have a copy of that letter. I simply have a recollection of having written such a letter.

Mr. JENNER. All right, sir.

Mr. KALMBACH. Also, Mr. Jenner, I have a recollection, a clear recollection, of writing such a letter and there may have been one or two or three such letters to Mr. Haldeman, both as to Mr. Symington and as to Mr. deRoulet. But I have copies of none of those letters.

Mr. JENNER. Mr. Kalmbach, did you subsequently have some correspondence with Ambassador deRoulet on this subject?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Was Mr. John Connally brought into this matter at some point?

Mr. KALMBACH. My recollection, as I have recounted to you and to Mr. Sharp earlier, is that I was at John Connally's ranch in February of 1973, my wife and myself, and also Ambassador deRoulet and his wife, with John Connally and his wife, Nellie. While we were there over that weekend, I advised Ambassador deRoulet that it was my information that he was to be appointed to Sweden and my clear recollection is that John Connally confirmed my understanding from his own sources and information.

Mr. JENNER. And you have recounted that ultimately the funds—you were directed ultimately to seek to return the contribution of Ambassador deRoulet?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And did he accept the return?

Mr. KALMBACH. No, sir, he declined and said that he was pleased, he and his wife were pleased to contribute to the President's campaign.

Mr. JENNER. Did you also, Mr. Kalmbach, have some relationship to an ambassadorship for Dr. Ruth Farkas?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. See if you can tell us about that in the shortest possible compass.

Mr. KALMBACH. Yes, sir.

On or about July 1 or August 1, I am not certain as to which, of 1971, I received a telephone call from Peter Flanigan and the gist of that telephone call as I best recollect it, is as follows: Peter said, Herb, we would like to have you contact a Dr. Ruth Farkas in New York. She is interested in giving \$250,000 for Costa Rica.

Mr. JENNER. What do you mean for Costa Rica?

Mr. KALMBACH. Well, it was clear in my understanding of that conversation that she was interested in, that she would contribute \$250,000 to the President's campaign and in return for that \$250,000, she would be appointed Ambassador to Costa Rica.

I then—he said that Congressman—

Mr. JENNER. Proceed.

Mr. KALMBACH. Congressman Wyman would be in touch with me.

Mr. JENNER. Is that Congressman Wyman of New Hampshire?

Mr. KALMBACH. Yes, sir. Would be in touch with me to set up the meeting between myself and Dr. Ruth Farkas.

Subject to that conversation, I have a clear recollection of a telephone conversation with Congressman Wyman and the Congressman agreed to call Dr. Farkas and make it known to her to expect a call from me, and he further indicated in that conversation essentially what Peter Flanigan had indicated to me; namely, that she was interested in an ambassadorial appointment to Costa Rica and that she would give \$250,000. That is my very best recollection.

Mr. JENNER. Did you meet with Dr. Farkas?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. When did you meet with her?

Mr. KALMBACH. It was in early August, as I remember, of 1971.

Mr. JENNER. Where?

Mr. KALMBACH. In New York at the Regency Hotel. And we had lunch together.

Mr. JENNER. All right. What ensued?

Mr. KALMBACH. I called her and it was evident, I think Congressman Wyman had called her beforehand and she was expecting and agreed to meet with me at that time and place. So we went to lunch that day.

Mr. JENNER. Where was that?

Mr. KALMBACH. At the Regency Hotel in New York. And I had understood, as I have related, from Mr. Flanigan and from Congressman Wyman, that there was \$250,000 for Costa Rica. So when I started talking to her about being helpful to the President's 1972 campaign, she said words to the following effect: She said, you know, well, I am interested in Europe, I think, and isn't \$250,000 an awful lot of money for Costa Rica?

I at that point thought I would just have a general conversation with her, because it was evident to me that she wasn't all that interested in Costa Rica and was more interested in Europe. I told her that I would support her candidacy for an ambassadorial appointment, act as a reference. She was very pleasant. We had a pleasant lunch. I said goodbye to her and I have not seen her or talked to her, as I remember, from and after that date.

In early February of 1972, when I gave my base records over to Mr. Stans, I listed Mrs. Farkas and \$250,000—Mrs. Farkas as a prospect with \$250,000 opposite her name as a prospective amount. But that was the end of my conversation with Mrs. Farkas.

Mr. JENNER. Was she ever appointed an ambassador?

Mr. KALMBACH. Yes, sir, she was.

Mr. JENNER. To what country?

Mr. KALMBACH. Luxembourg.

Mr. JENNER. Did you have a conversation with Mr. Flanigan on this matter in August or September of 1971?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Where was it?

Mr. KALMBACH. In his office.

Mr. JENNER. What did he say; what did you say?

Mr. KALMBACH. I met with Peter Flanigan, and again, I was urging the honoring of the prior commitments to Ambassador Symington and to Ambassador deRoulet and he was back again saying, we can't do that. I said at that point, I said, Peter, you have just asked me to meet with Dr. Ruth Farkas, indicating to me a commitment possible of Costa Rica for \$250,000, and my best memory is his reply was, "Well, that is different, she is competent"—or "she's capable." That was his response to that.

Mr. JENNER. Did you ever have any conversation on this subject matter with Mr. Haldeman?

Mr. KALMBACH. I don't recall—as to Dr. Farkas?

Mr. JENNER. Yes.

Mr. KALMBACH. I don't recall that I did, Mr. Jenner. It would be logical, but I don't have a clear recollection that I did. I think that I probably did, but I don't have a clear recollection of it.

Mr. JENNER. Well, if you don't have a recollection, Mr. Kalmbach, I am sure the committee doesn't want any speculation.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. We turn now to San Clemente.

Mr. Chairman and ladies and gentlemen of the committee, there will be a few minutes on this subject, because a report is being made to you in which the facts and the exhibits are set forth. This is just a few questions to supplement that report.

Please tell us your function with respect to the improving and maintaining of the San Clemente White House residence.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And do it in generalities.

Mr. KALMBACH. Very generally, Mr. Jenner; after the negotiation period leading up to the discussion of the escrow instructions for the President to purchase the San Clemente property, I was asked by Mr. Haldeman and Mr. Ehrlichman to coordinate the construction and the remodeling, renovation, of the Cotton property in—

Mr. JENNER. The committee is not altogether familiar with this.

Mr. KALMBACH. The Cotton estate.

Mr. JENNER. Would you enlighten the committee as to what the Cotton estate was from some other estate, if any?

Mr. KALMBACH. Yes, sir; the Cotton estate was a single ownership of approximately 23 or 24 acres on the coast in southern Orange County. Mrs. Cotton and the family, including several trusts, were in ownership and this group was the group from which the President purchased the property with the escrow closing on July 15, 1969. As I say, Mr. Jenner, my role, in addition to negotiating the purchase and representing the President in these negotiations, with Mr. DeMarco to do the documentation work, was to coordinate the renovation and remodeling and putting the property in readiness for the President's arrival. His first arrival at the property, as I remember, was in the first 10 days of August 1969.

Mr. JENNER. A previous witness has testified—as a matter of fact, Alexander Butterfield, that President Nixon was “very interested in the grounds at Key Biscayne, Camp David, San Clemente, the house, the cottage, and the grounds.”

From your experience and serving in the capacity you have indicated, is that a fair characterization?

Mr. KALMBACH. It is.

Mr. JENNER. And that arises from your personal knowledge and experience in dealing with this matter?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And serving as the President's legal representative?

Mr. KALMBACH. That is correct, sir.

Mr. JENNER. Can you relate to the committee some experience of yours at San Clemente which would substantiate that statement with which you have now agreed?

Mr. KALMBACH. Mr. Jenner, I recall walking with the President and Mrs. Nixon around the grounds subsequent to the time that they had moved into that property, and, of course, were in San Clemente. They pointed out to me—the President pointed out to me and also Mrs. Nixon—certain rose bushes that should be pulled up and changed and moved around. There was a great interest in the grounds and a great interest in all things relative to that property.

Mr. JENNER. And did the President go into some detail as to specific items?

Mr. KALMBACH. Yes, sir. Of course, I recall his attention to the detail involved in the building of the swimming pool at the San Clemente property.

Mr. JENNER. Was this in March of 1969?

Mr. KALMBACH. I don't recall the exact date, Mr. Jenner.

Mr. JENNER. All right. Well, was it in 1969?

Mr. KALMBACH. I don't recall when the pool—we had a meeting, I recall, in one of the gazebos with the President, Mr. Rebozo, Mr. Ehrlichman, myself, Harold Lynch, and, I think, Frank DeMarco were there, and the President went over the schematics and the layouts with great attention. And I cannot pinpoint the date. My logs would show that, I believe.

Mr. JENNER. All right. You have mentioned Mr. Rebozo. Did you ever render any legal services to Mr. Rebozo?

Mr. KALMBACH. Pardon me, Mr. Jenner.

Mr. Jenner, I think that this was a matter that was taken up with Senator Ervin.

Mr. JENNER. I don't think—I will not go into the services that were rendered. I just wanted to know whether you rendered any legal services to Mr. Rebozo.

Mr. KALMBACH. I am uncertain as to that.

Mr. JENNER. All right. Did you ever, in any event, submit any statements for legal services performed for him?

Mr. KALMBACH. Never at any time.

Mr. JENNER. Or any items of expenditure or legal expense?

Mr. KALMBACH. No, sir; not for services or for costs.

Mr. JENNER. Now, for the purpose, Mr. Kalmbach and Mr. Chairman, ladies and gentlemen of the committee, to indicate the nature of Mr. Kalmbach's services, I will direct the witness' attention to an exhibit to which is appended an affidavit. Together with the affidavit, the exhibit consists of three pages which I have marked "Kalmbach exhibit No. 20, the first page of which, as I have stated, is an affidavit. The second and third pages are longhand notes, again on ruled paper.

Mr. Chairman, may the exhibit for questioning be recognized as Kalmbach exhibit No. 20?

[The document referred to was marked for identification, Kalmbach exhibit No. 20, and follows:]

[Kalmbach Exhibit No. 20]

HOUSE OF REPRESENTATIVES

OF THE UNITED STATES

COMMITTEE ON THE JUDICIARY

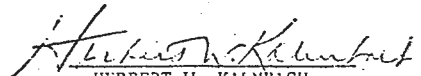
AFFIDAVIT

CITY OF WASHINGTON)
) ss.
 DISTRICT OF COLUMBIA)

HERBERT W. KALMBACH, being duly sworn, deposes and says:

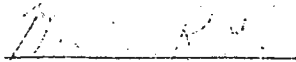
1. For the years 1969 through 1973 I served as President Nixon's personal representative overseeing operations and making disbursements at the President's estate in San Clemente, California. I make this affidavit at the request of a staff member of the House Judiciary Committee. All statements made herein are made to the best of my present recollection.

2. The copy of a handwritten memorandum attached hereto was written by John Ehrlichman and given to me by Mr. Ehrlichman at San Clemente around June of 1969. Its purpose was to provide guidance to me in regard to the manner in which installations were to be made and financed at the President's estate.


 HERBERT W. KALMBACH

Sworn to before me this

17 day of June, 1974


 Notary Public
 MARVIN R. EVANS
 Notary Public, District of Columbia

See 6-11-67

① Heating -

Draw drapes /

As SS cost, if any -

No gas② Paving drive & walks - no change except
as govt expense③ Sewer

2800 max -

④ LandscapingGarden on GSA!
More trees
\$350/mo.

⑤ "Card House" on north line

let SS use -

⑥ Tax implication of SS use
of buildings

⑦ SS build beach shelter
& use when π not
there - put phone in

No Truck-

⑧ SS pay for ^{building} use of π property

⑨ give SS up to 4 of outbuildings
more write-off

⑩ Use Tinted Armor for pool
windbreak - BLAUSS

Mr. JENNER. Mr. Kalmbach, referring to the ruled paper memorandum consisting of the second and third sheets of exhibit No. 20, in whose handwriting is that exhibit?

Mr. KALMBACH. My best recollection is that that is the handwriting of John Ehrlichman.

Mr. JENNER. Have you seen the handwriting of John Ehrlichman on various other occasions?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And tell us the circumstances of your receiving or acquiring this memorandum—when and where was it made, was it made in your presence, if so, where?

Mr. KALMBACH. My recollection of this, Mr. Jenner, is that as is reflected in my logs copiously, during the May-June-July period when

the pace at San Clemente was quite frantic, I had a standard procedure to run all questions relative to matters pertaining to San Clemente's past Mr. Ehrlichman and Mr. Haldeman for their approval and direction. And it is my best recollection that in June—and I can't be certain on this. I see that I have 6-11-69. That may be the approximate date, but I am not certain on that—that Mr. Ehrlichman wrote this out in my presence.

Mr. JENNER. You do have that recollection, however?

Mr. KALMBACH. That would be my recollection. I am not certain on that, but it is my best recollection.

Mr. JENNER. And did you discuss the various items that you have listed? I think they are listed as 10 items?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. And are the second and third pages of the exhibit, being those longhand notes of Mr. Ehrlichman, as you say in your affidavit, are they a true and correct Xerox copy of the original of those notes given to you by Mr. Ehrlichman as you have stated?

Mr. KALMBACH. Yes, sir, to the very best of my recollection.

Mr. JENNER. All right, sir.

Now, did you discuss with Mr. Ehrlichman and with anybody else each of the items listed and the exhibit?

Mr. KALMBACH. Yes, sir. I wanted their guidance on this.

Mr. JENNER. And you received it?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Was it the normal procedure of Mr. Ehrlichman to discuss details of improvements or installations or financing, to your impression or knowledge, with President Nixon before instructions were passed on to you by Mr. Ehrlichman?

Mr. KALMBACH. It is not my certain knowledge, no, sir.

Mr. JENNER. What is your knowledge and impression?

Mr. KALMBACH. My knowledge simply is that I got my directions from Mr. Ehrlichman and/or Mr. Haldeman as to matters pertaining to the San Clemente property.

Mr. JENNER. All right, there is an entry in your personal diary for August 11, 1969, which I am advised is when the President arrived in San Clemente for a month-long visit.

Mr. KALMBACH. Pardon me, Mr. Jenner, what date was that?

Mr. JENNER. August 11, 1969.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. You recall that event?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. Did you have a meeting with the President and Mr. Ehrlichman on that occasion?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. Where was the meeting?

Mr. KALMBACH. In San Clemente. My recollection is it was in the President's office in San Clemente.

Mr. JENNER. And did the President say anything to you on that occasion?

Mr. KALMBACH. Yes, sir, the President was complimentary of the job that had been done by myself and so many others in readying the property for his occupancy early in August.

Mr. JENNER. Was there any discussion with the President as to conveying his appreciation to anybody else?

Mr. KALMBACH. I don't have an independent recollection on that.

Mr. JENNER. Well, if you don't, then, Mr. Kalmbach, that is the best you can do.

Mr. KALMBACH. My best recollection is that he asked me to thank the others.

Mr. JENNER. What others?

Mr. KALMBACH. Well, the others like Mr. Lynch and others who had been helping in all this work—De Cannell and Chafin, who were the interior decorators.

Mr. JENNER. Did it include Government personnel, GSA people, for example?

Mr. KALMBACH. I think that—it is my recollection, Mr. Jenner, that as his agent and attorney, that he was asking me to thank anyone that I knew who had worked hard to bring this altogether in time for him to take occupancy of the property, and that would include everyone.

Mr. JENNER. Was there a discussion at that time with the President with respect to your arranging a reception for all Government and non-Government personnel involved in the project?

Mr. KALMBACH. Yes, sir, I recall that.

Mr. JENNER. And did the President ask you to do that?

Mr. KALMBACH. Yes, sir, he did. And the reception, as I remember it, was in fact held.

Mr. JENNER. Did the President attend?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And did he say anything at that reception?

Mr. KALMBACH. I think he said very appropriate words of appreciation to all those present for the job that had been done.

Mr. JENNER. Now, I'd like to proceed to the Townhouse Project and the Townhouse Operation to which you have made some reference in the course of your testimony today.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Were you asked at one time to raise funds for that?

Mr. WIGGINS. Mr. Chairman?

Mr. DONOHUE. Mr. Wiggins.

Mr. WIGGINS. Counsel, you have left this document without an understanding, at least on my part, as to whether or not the materials described therein were in fact performed, the services were performed. Were they?

Mr. JENNER. Thank you, Congressman Wiggins.

Mr. Kalmbach, referring you again to the memorandum identified at Kalmbach exhibit No. 20, would you testify in response to Congressman Wiggins' inquiry as to whether the various items or projects or installations were in fact accomplished?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Take them in order.

Mr. KALMBACH. Yes, sir, to the very best of my recollection, Mr. Jenner, the heating, the No. 1 item, heating, forced air heat, was installed in the property, and no gas, as Mr. Ehrlichman has underlined in this memo.

The walks, there was paving and walkways were paved. That is my memory.

On the sewer installation, that was accomplished.

The landscaping, the major landscaping changes were effected, including the moving of a great many trees for security purposes. That was accomplished.

No. 5, the "card house" on the north line, I think that in fact, the Secret Service did begin using that as a command post. I am not certain of that, but that is my best recollection.

Then, No. 6, the tax implications of the Secret Service use of the buildings, that was referred to Mr. DeMarco and I have no knowledge, Mr. Jenner, as to whether there was any tax writeoff or deductions or whatever involving No. 6.

No. 7, the Secret Service to use the beach shelter and use when the President is not there, put phone in—a phone was put in and I think the Secret Service did use the beach shelter. But again, I just didn't stay that close to it to know how extensive the use was.

Mr. DANIELS. Mr. Chairman, I wonder if—on this point, as I read it, the way I read it, it says "SS" which I guess is Secret Service, says build beach shelter. Was one built?

Mr. KALMBACH. Yes, sir, it was, it was on skids on the beach and eventually, a storm broke it up.

Mr. DANIELS. The last thing is no truck?

Mr. KALMBACH. There was a question whether or not we should purchase a truck from the owner, there was an old truck and finally, I think the owner just gave the truck to the President as part of—just for \$1 or whatever it was and the files will reflect that, Congressman.

No. 8, the Secret Service paid for building. I don't know what that other—I am not certain. This isn't legible enough for me to read of the President's property. I can't read that, make it out intelligently.

No. 8 is give Secret Service up to four of the out buildings. More writeoff. Now, the out buildings on the property, I think were, in fact, used by various of the Secret Service personnel as living quarters. I am not certain of this. Again, the Secret Service would know exactly what, in fact, did happen, and I have no knowledge as to how this was handled, as to writeoff. I just don't have any knowledge, Congressman.

And then No. 10 is tint, armor for a pool, tinted, I guess it is, or I am not certain. Now, that was, that pool windbreak was, in fact, installed, and as I understand, it was the Secret Service, a thin glass, bullet deflector.

Mr. JENNER. Bulletproof?

Mr. KALMBACH. Bulletproof, and it also doubles as a windbreak in bronze, and that was, in fact, installed.

Mr. JENNER. Now, Mr. Kalmbach—

Ms. HOLTZMAN. Mr. Chairman?

Mr. DONOHUE [presiding]. Mrs. Holtzman.

Ms. HOLTZMAN. Thank you.

For point of clarification, item 4 says landscaping gardener on GSA. What does that mean, that the gardener was going to be put on the GSA?

Mr. KALMBACH. Yes, ma'am.

Ms. HOLTZMAN. Payroll? Was that accomplished?

Mr. KALMBACH. That is my recollection. That is correct and that, Congresswoman, that continued, as I remember it, up to early 1970. That's my best recollection.

Ms. HOLTZMAN. Thank you.

Now, Mr. Kalmbach, on the direction of Mr. Erhlichman and Mr. Haldeman.

Mr. DENNIS. Mr. Chairman?

Take items 1, 2 and 3, for instance. Who paid for them? The Government or the President, or do we know?

Mr. KALMBACH. To the extent—I think here, Congressman, on No. 3, sewer, I think without having my memory refreshed or going to the records, that the \$2,800 is the maximum that the President was to pay for. The balance was to be paid for by GSA.

Mr. JENNER. Mr. Chairman and ladies and gentleman of the committee, as I said at the outset, the staff has completed and is about to have typed up for you a detailed report respecting the costs and the payments and that sort of thing and what I am seeking here to do is merely to supplement from this witness that which is needed in that report, and many of the questions you are asking will be reported to you in the report itself.

Mr. BROOKS. Would the gentleman yield?

Mr. DENNIS. I will in just a moment. I would like, I would like to observe that while that may be true, we have a direct witness on the stand here who presumably knows something about these matters and I would think it might be a good idea to inquire, even if we do have some documentary evidence later. I will yield to the gentleman from Texas.

Mr. BROOKS. I would say that I believe that you will find in the hearings that were passed by the Government Operations Committee 36 to nothing, you will find this very helpful in that it lays out that the heating system was installed. They did not put in a gas system. The Secret Service didn't want to put in a gas system, so they didn't put one in. The Federal Government paid for an electric system.

On the paving, there was a breakdown on the paving, and the President paid for a portion of it and the Federal Government paid for the large portion of it. The same thing was true of the sewer. The President made a payment for a portion of the sewer and the same thing was true on the landscaping, the lights, et cetera, and on the card house that was used, the Secret Service had in it, Mr. Dennis, a small console about this big and that's all. It was a little card house where Roosevelt used to play dominoes, I guess.

Mr. DENNIS. Well, that's nice. Well I appreciate the gentleman's information and, of course, the only thing I am interested in, and I assume the only thing any of us are interested in, is the extent to which payments were legitimately to be made by the Government and the extent to which they were to legitimately be made by the President and whether or not that was observed and to what extent, and that's what I want to get eventually by some reasonable method.

Mr. JENNER. Thank you, Congressman Dennis. That is all recorded, and the report refers to the record of each of those items.

Mr. Kalmbach, referring you to item No. 1 on the first page, there appears the wording, "at SS cost, if any." Is that a direction by Mr. Haldeman?

Mr. KALMBACH. That would be my interpretation, yes, sir.

Mr. JENNER. And to the extent of your recollection, did you undertake to see that that was accomplished?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. As to the walks or the paving, Mr. Ehrlichman says no change except at Government expense. Did you seek to accomplish that?

Mr. KALMBACH. Yes, sir, I did.

As I look at this, Mr. Jenner, it is possible that I was wrong that this was written in my presence. It could have been that Mr. Ehrlichman wrote it out of my presence, and either handed it to me or mailed it to me. My recollection is just not that good.

Mr. JENNER. All right, sir. Thank you.

Turning to the Town House operation——

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Did you raise funds for that project?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. You have described it to some extent this morning, and I won't ask you to repeat that. Who advised you as to what the purpose of that project was?

Mr. KALMBACH. Well, initially, Mr. Jenner, it was Mr. Dent, I think accompanied by Mr. Gleason, but Mr. Haldeman was the one who formally asked me to take on this assignment, and was the one to whom I regarded myself as reporting on the assignment.

Mr. JENNER. What was the amount of funds that reached you with respect to the town house project?

Mr. KALMBACH. Well, the initial budget goal figure, according to my memory, was \$2,050,000 and it is my recollection that that budget was established by people within the White House and I can not be certain as to exactly who it was that established the budget but my memory is clear that that was the budget figure that was given to me.

Mr. JENNER. Given to you by whom?

Mr. KALMBACH. By the White House.

Mr. JENNER. When you say the White House, will you identify somebody in the White House?

Mr. KALMBACH. Well, Mr. Jenner, I can't be certain as to who in the White House, but I know that I dealt with Mr. Dent, with Mr. Gleason, and that I regarded myself as reporting to Mr. Haldeman throughout this 1970 assignment. So it would be my very best recollection that either Mr. Haldeman gave me this budget or that Mr. Dent gave me the budget with Mr. Haldeman confirming that that was, in fact, the budget.

Mr. JENNER. Do you recall Mr. Haldeman did confirm that was the budget?

Mr. KALMBACH. That would be my best recollection, yes, sir.

Mr. JENNER. Was there a committee appointed or a committee who served to advise you as to the expenditure of those funds?

Mr. KALMBACH. There was not a committee set up to advise me at all. My sole function in this project was to raise the funds to under-

write the program. A committee, as I understand it, Mr. Jenner, was set up within the White House, what was loosely called an appropriations committee, and I am not certain as to the membership of that committee but, that is my recollection, that I was advised of such a committee.

Mr. JENNER. Do you recall a dinner aboard the *Sequoia* arranged and held in connection with this project?

Mr. KALMBACH. Yes, sir, I do.

Mr. JENNER. When did this happen?

Mr. KALMBACH. I think in mid-July of 1970.

Mr. JENNER. Would it be July 16, 1970?

Mr. KALMBACH. Yes, sir. That would be on or about July 16, 1970.

Mr. JENNER. And attending that dinner on the *Sequoia*, just identify, and I don't seek you to identify the persons, but just describe who they were generally.

Mr. KALMBACH. Well, there were a number of the major contributors, not only to the 1970 senatorial campaign program, but also, I think there were people there who had been contributors in 1968. But, I can not be certain as to that period. I know that the makeup of the invitees were finance contributors primarily to this 1970—

Mr. JENNER. Did you attend that dinner aboard the *Sequoia*?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. And did the President address the group?

Mr. KALMBACH. Yes, sir, he did.

Mr. JENNER. What did he say?

Mr. KALMBACH. My recollection of that talk, which was around the table there aboard the *Sequoia*, was that it had to do primarily with the outlook for the congressional campaigns in 1970. And I think he talked about Vietnam. It was a political talk, and a talk about the progress of his administration.

Mr. JENNER. Following that meeting on the *Sequoia*, did you make up a list of some character for the President?

Mr. KALMBACH. Yes, sir; I did.

Mr. JENNER. What was it.

Mr. KALMBACH. My recollection, Mr. Jenner, is that I was asked to submit a list of people who had been invited, but had been unable to attend, in order that the President, at his convenience, could call them and thank them for their—I understood, thank them for their support, and much like what he stated to the group aboard the *Sequoia* that evening.

Mr. JENNER. Did you supply telephone numbers on that list?

Mr. KALMBACH. That would be my recollection.

Mr. JENNER. To whom did you give the list after you prepared it?

Mr. KALMBACH. I am not certain on this, Mr. Jenner. It would be either to Mr. Haldeman through one of his aides, or to Mr. Dent, or perhaps to Peter Flanigan. I am just not certain.

Mr. JENNER. All right, what kind of support, financial support or campaign working support?

Mr. KALMBACH. I think with this group, and with the invitees who had declined to attend, it was clear that it was—they were talking about finance support.

Mr. JENNER. You say you think. Do you have a recollection?

Mr. KALMBACH. That is my recollection; yes, sir. I'm sorry.

Mr. JENNER. Did you subsequently undertake to solicit funds from any other persons who attended that dinner?

Mr. KALMBACH. I am not certain, Mr. Jenner. If these people who were in attendance at that dinner were people that I had already talked to about the 1970 campaign effort, or whether there were some that I had not talked to as yet. But it was made up—I think I probably saw most, if not all, of the people in due course, in 1970, to try to get them to contribute to the 1970 senatorial campaign assignment.

Mr. JENNER. In the course of your solicitation, did you have conferences with Mr. Haldeman and with Mr. Ehrlichman respecting those solicitations?

Mr. KALMBACH. Yes, sir. And particularly with Mr. Haldeman. But I have a recollection of advising Mr. Ehrlichman from time to time of my activities in this area. But within this area, I have the clear understanding that I was reporting to Mr. Haldeman and he was the one that I dealt with primarily during this period, along with Mr. Dint and Mr. Gleason.

Mr. JENNER. Mr. Kalmbach, I would like to ask you just a few questions about a gift of Presidential papers.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And I draw your attention to April 21, 1969.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. Do you recall that on that day you spent quite a good time with Mr. DeMarco, your partner, and with Mr. Edward L. Morgan? Please identify Mr. Morgan.

Mr. KALMBACH. Mr. Edward L. Morgan was at that time Deputy Counsel to the President, Deputy to Mr. Ehrlichman who was Counsel to the President.

Mr. JENNER. Was there any discussion on that day at that meeting of any gift of papers by the President?

Mr. KALMBACH. I have no recollection of such.

Mr. JENNER. Do you have—is your recollection clear, clear enough to state that there was none, to the best of your recollection?

Mr. KALMBACH. No, sir. I just don't have any recollection of such a discussion in my presence.

Mr. JENNER. Was any discussion during the course of that meeting of a deed of gift for the papers?

Mr. KALMBACH. Again, I have no recollection of any such discussion of a deed of gift.

Mr. JENNER. Now, did you spend the entire day with Mr. DeMarco and Mr. Morgan?

Mr. KALMBACH. Yes, sir, I did.

Mr. JENNER. And do you recall having breakfast in the coffee shop of the Sentry Plaza Hotel that day?

Mr. KALMBACH. Yes, at 8 o'clock.

Mr. JENNER. Did you then go to San Clemente?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. For what purpose?

Mr. KALMBACH. Mr. Morgan had been—I had been advised by Mr. Ehrlichman that Mr. Morgan was to be the person, the point of contact for Mr. DeMarco relative to these matters and Mr. DeMarco had

prepared the documentation for and including the draft of the escrow instructions for the purchase of the property. Mr. DeMarco and Mr. Morgan and I drove in two cars to San Clemente from the Sentry Plaza Hotel, and arrived at San Clemente about 11 or 11:30 that morning and met Mr. Ayres and Mr. Raine.

Mr. JENNER. Identify those people.

Mr. KALMBACH. Mr. Ayres is a surveyor and has an engineering firm in San Clemente, South Coast Engineering, as I remember it, and he had prepared in earlier years, I think in 1962, for the Cottons a perimeter map of the property and so he was well acquainted with that property.

And Mr. Raine is Mr. Haldeman's brother-in-law, a licensed real estate broker in California who, in fact, was the one who first located the Cotton Estate. The five of us went from the San Clemente Inn, as I remember it, and drove to the property, which is approximately a 5 minute distance and walked the property, walked all around the property, to acquaint Mr. Morgan with the property. We then returned to the San Clemente Inn and drove Mr. Morgan, Mr. DeMarco, Mr. Raine, and myself up to Newport Beach and had lunch at the Rubin E. Lee Restaurant at Newport Beach at 2 o'clock. That lunch, I think, went from then until 3 or 3:30, and we adjourned from that lunch to our Newport Beach office, which is a 5 minute distance from the Rubin E. Lee Restaurant.

Mr. JENNER. When did that date end insofar as these events are concerned?

Mr. KALMBACH. That day ended, as I best recall it, Mr. Jenner, at 5 or 6 o'clock, when Mr. Morgan and Mr. DeMarco, and it is my best recollection drove back to Los Angeles from Newport Beach and leaving our Newport Beach office, and Mr. Raine drove home from the office.

Mr. JENNER. Now, Mr. Kalmbach, during all of that day that you have now described, did you see or hear about a deed being executed?

Mr. KALMBACH. No, sir. I have no recollection of hearing or seeing of a deed of gift being executed.

Mr. JENNER. I have no further—excuse me. I have been handed a memorandum, Mr. Chairman. May I look at it?

[A short pause.]

Mr. JENNER. Mr. Chairman, that concludes my questioning of this witness.

Mr. DENNIS. Mr. Chairman?

Mr. Jenner, are you speaking here of the deed of gift of the papers or a deed of the real estate?

Mr. JENNER. I was speaking of the deed of gift of papers, and I am pleased that you raised that.

Mr. Kalmbach, did you understand—

Mr. KALMBACH. Yes, sir.

Mr. JENNER. I will say this to you, when I asked you the question as to a deed of gift or a discussion of the deed of gift, I had in mind a deed of gift of Presidential papers. Did you so understand in making your answers?

Mr. KALMBACH. Yes, sir. I so understood.

Mr. JENNER. And it was not a deed with respect to land?

Mr. KALMBACH. No, I understood that.

Mr. JENNER. Or any other kind of deed?

Mr. KALMBACH. That is what I understood from your question.

Mr. JENNER. With respect to any other subject matter?

Mr. KALMBACH. That is what I understood from your questioning.

Mr. JENNER. Thank you, Mr. Kalmbach.

Mr. FLOWERS. Mr. Chairman, point of clarification. It was my understanding from earlier, Mr. Jenner, and this is a little provincialism here, it was my understanding earlier on that we were going to talk about some campaign funds that were sent to Alabama. Does my recollection fail me, that we didn't quite get to it?

Mr. JENNER. You are correct, Congressman, and in an effort to try and end this, I had not inquired about it, but I will do so.

Mr. Kalmbach, in connection with the town house campaign project, did you deliver funds of \$100,000 to some individual?

Mr. KALMBACH. Yes, sir; I did. During the period in which I was engaged in this so-called town house assignment; yes, sir.

Mr. JENNER. In April of 1970?

Mr. KALMBACH. Yes, sir. My recollection on that, Mr. Jenner, is that there were three dispersals of a similar nature, one of \$100,000 on or about April 1 of 1969, which I myself delivered to a person unknown to me in the lobby of the Sherry Netherlands Hotel in New York. This was at the request and explicit direction of Mr. Higby who was Mr. Haldeman's deputy.

Mr. JENNER. What did he say?

Mr. KALMBACH. He said words to the following effect: he said, Herb, we want you to take \$100,000 in cash and meet an individual. And I asked him—he asked me where, you know, where in New York I could meet and I said, well, I could see him in the hotel or wherever, and we agreed to the Sherry Netherlands Hotel. And Mr. Higby directed me to give these funds to an individual who was not to be known to me and there was an identification procedure worked out between Mr. Higby and myself so that this individual would come up to me in the lobby and he would ask me if I was from some place and I said no, I was from some place else, and that was sufficient for Mr. Higby—

Mr. JENNER. That was the signal?

Mr. KALMBACH. That was my general—that was my best recollection of the signal. But, it was such that if this person asked me a certain question and I replied in a certain way, and he replied in a certain way, it was sufficient for me to give those funds to that individual.

I did not know who the individual was. I never have learned his name. His voice was not distinctive to me, and I just didn't know who he was. I assume that at that time that it was a dispersal within this senatorial campaign program for one or more races.

Mr. JENNER. Excuse me, Mr. Kalmbach.

Mr. KALMBACH. Yes, sir.

Mr. JENNER. When Mr. Higby spoke to you and directed you to deliver the \$100,000, was anything said about the money going South?

Mr. KALMBACH. Well, I don't recall that it was at the outset. I have a recollection, as I have related, I think, you Mr. Jenner, and to Mr. Sharpe, that at a later time words were spoken saying that

the money that went South. Now, I didn't know whether that meant to Southern races or what, and eventually I had the—and I don't know how I received this information, but I eventually came to believe that these funds had been dispersed to Mr. Brewer in the campaign, primary campaign against Governor Wallace in Alabama. Now, I have recounted this morning my conversation with Mr. Ehrlichman on April 6, 1973, wherein he said, or I said I will have to disclose that I have dispersed \$400,000 and at that time he said, oh, yes; to Mr. Brewer. And that was a further confirmation of what I suspected, even then I wasn't, I just wasn't certain.

But, I have recounted the very best I could here, Mr. Jenner.

Mr. JENNER. All right, thank you. Is that the meeting—excuse me.

Mr. DENNIS. I am sorry. I may have missed it.

Was there some approximate date fixed for this incident?

Mr. JENNER. April 1970, the four part.

Mr. DENNIS. Thank you.

Mr. JENNER. Mr. Kalmbach, the report to Mr. Ehrlichman of the conversation to Mr. Ehrlichman occurred, did it not, on the 6th of April 1973, when he made the remarks?

Mr. KALMBACH. Yes, sir, it did.

Mr. JENNER. About the \$400,000 to Mr. Brewer?

Mr. KALMBACH. Yes, sir, it did.

Mr. JENNER. And was that the—how did that meeting come about?

Mr. KALMBACH. Well, that was the meeting that I testified to this morning, Mr. Jenner, and that was the meeting that I had been asking for while Mr. Ehrlichman was in San Clemente with the President. And then his secretary, Jan Hruska, called me on that Friday morning.

Mr. JENNER. That was the parking lot meeting?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. All right. Now, would you tell us, Mr. Kalmbach, about the disposition of the balance of the \$400,000?

Mr. KALMBACH. Yes, sir. In addition to the \$100,000 that was dispersed in the manner described on or about April 1, 1969, I received two additional requests, both of which came from Mr. Higby. The request, as I recall it, best recall it, came in May, and the first request was for me to distribute an additional \$100,000, again to the same persons unknown, and this disbursement was made, as I remember it, in the lobby of the Bank of California at the corner of Sixth and Flower Streets in Los Angeles. And in the same general procedure. And these funds, this was \$100,000 in amount.

The final—

Mr. JENNER. That was May 14, 1970?

Mr. KALMBACH. On or about May 15 of 1970; yes, sir.

Mr. JENNER. All right. And your calendar reflects that, does it not?

Mr. KALMBACH. Well, I have a note in my file, in the townhouse file, that reflects that; yes, sir.

Mr. JENNER. All right.

Mr. KALMBACH. And then a final disbursement of \$200,000, again I was directed by Mr. Higby to disburse on or about May 22, 1970, and that disbursement was made in New York by Mr. Raine in the lobby again of the Sherry Netherlands Hotel.

Mr. JENNER. Identify Mr. Raine, please.

Mr. KALMBACH. Mr. Raine was, is Mr. Haldeman's brother-in-law and was the broker involved in the acquisition involved in the purchase of the San Clemente property. And, in fact, was the signatory on the various checking accounts and safe deposit boxes that I had throughout this period.

Mr. JENNER. All right. Thank you.

Mr. KALMBACH. Yes, sir.

Mr. DANIELSON. Mr. Chairman?

Mr. Chairman, on that last delivery, just whatever you want to call it, distribution, I would like to know, did the witness turn the money over to Mr. Raine in the form of cash and did Mr. Raine in turn go to New York or how was it handled mechanically?

Mr. KALMBACH. Yes, sir. I understand your question. My best recollection, Congressman, is that Mr. Raine was in New York and that Mr. Raine withdrew the \$200,000 from the Chase box and made the disbursement as a result of or after withdrawing those funds and those funds, it would be my best recollection, Congressman, that the reason that I was not involved in that disbursement was that I was probably in California at the time and had directed him to follow through on this and that he met with Mr. Evans, and with joint entry required, they withdrew the \$200,000 and then Mr. Raine made the disbursement, pursuant to my directions.

Mr. DANIELSON. Who would Mr. Evans be?

Mr. KALMBACH. Mr. Evans is, as I testified this morning, Mr. Evans is a partner in the Mudge, Rose firm, and was the third signatory on the various safe deposit boxes and checking accounts.

Mr. DANIELSON. The other item of clarification is following on each of three items on memos I have it says 11:45. What does that mean?

Mr. KALMBACH. Well, just the time, as best I remembered it.

Mr. DANIELSON. Thank you.

Mr. JENNER. Mr. Chairman, may the exhibits I have identified as Kalmbach exhibits 2 through 20 be made a part of the record?

Mr. DONOHUE [presiding]. Without objection, they will be so identified and made a part of the record.

Mr. THORNTON. Mr. Chairman?

The CHAIRMAN. Mr. Thornton.

Mr. THORNTON. One quick item of clarification. I believe you mis-spoke at least on one occasion in referring to April 1969 in the last exchange with regard to the payments of \$400,000. If so, that was 1970, was it not?

Mr. KALMBACH. That is correct and thank you, Congressman, for bringing that to my attention.

Mr. JENNER. What was the source of those funds, Mr. Kalmbach?

Mr. KALMBACH. The source of those funds, were funds that I held interest that had been—the funds that had been given to me by Mr. Stans.

Mr. JENNER. Mr. Kalmbach, was there an occasion when you transmitted \$100,000 to Governor Nunn?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. And were those trust funds?

Mr. KALMBACH. Yes, sir.

Mr. JENNER. That occurred on September 21, 1971?

Mr. KALMBACH. My best recollection is it occurred later in the month, but about September 28.

Mr. JENNER. All right, would you tell us about that, please?

Mr. KALMBACH. Yes, sir.

I received a call, I think, about the middle of September 1971 from John Mitchell asking me to see him the next time I was in Washington. I did see Mr. Mitchell within a matter of a few days following that conversation and Mr. Mitchell at that time asked me to deliver \$100,000 in cash to Governor Nunn in Kentucky at my earliest convenience. I agreed to do so, recognizing that John Mitchell was standing in the shoes of Bob Haldeman as far as authorized disbursement from my trust funds. I returned to California, and withdrew \$100,000 from the safe deposit box, safe deposit boxes and on or about September 28, 1971, I flew to Louisville, Ky. And I was met there at the airport by a driver from Governor Nunn's office, who drove me to Frankfort.

I arrived in Frankfort, as I remember it, around 9:30 in the evening. I spent an hour or two with the Governor, and met Mrs. Nunn and during the time that the Governor and I were together, I gave him the package of \$100,000, for which he thanked me and acknowledged receipt and without more.

The next morning after breakfast, about 10:30, I flew from Louisville to Washington, D.C.

Mr. DENNIS. Mr. Chairman, point of clarification.

Mr. DONOHUE. Mr. Dennis.

Mr. DENNIS. For my benefit, maybe at least, I don't know, may I respectfully inquire, as I realize there may be, but what is the point of relevance? Why do we care whether he gave some money to Governor Nunn of Kentucky or didn't out of these campaign funds?

Mr. DONOHUE. Well, I am wondering, Mr. Dennis, is that a fair question?

Mr. DENNIS. Well, I would kind of like to know. I think it's a fair question. If the chairman doesn't think so, I will withdraw it. But, sometimes they ought to enlighten us.

Mr. DONOHUE. Personally, I don't think it is a fair question.

Mr. DENNIS. All right. I will withdraw.

Mr. JENNER. Mr. Chairman, it will take but a moment for me to respond, if you wish.

Mr. DONOHUE. You may.

Mr. JENNER. The reason, Mr. Dennis, is that the contribution was a violation of Kentucky law, and that it had Mr. Mitchell's direction that it be made.

Mr. DENNIS. All right. I thank you for the explanation. It takes us a certain distance. I appreciate it.

Ms. HOLTZMAN. Mr. Chairman?

Mr. JENNER. I was waiting for the witness to complete his answer.

Mr. DENNIS. I am not criticizing anybody, I just want to know.

Mr. DONOHUE. I would like to inquire of counsel.

Mr. JENNER. This will end my inquiry.

Mr. DONOHUE. I beg your pardon?

Mr. JENNER. We finished this conversation.

Mr. DONOHUE. I have a question that I would like to put to counsel.

Mr. JENNER. Yes.

Mr. DONOHUE. Are the details of the sale, of the purchase of the San Clemente property a part of the record?

Mr. JENNER. They are in part, and they will be completed in the memorandum which will be delivered to the committee hopefully tomorrow.

Ms. HOLTZMAN. Mr. Chairman, I have a point of clarification. I believe that the witness was asked earlier whether he had performed legal services for Mr. Bebe Rebozo, and the witness said he wasn't certain. I don't understand that answer.

Is the witness stating that he doesn't recollect performing such services or what? It's a very confusing answer.

Mr. Counsel, I wonder if you could get it clarified?

Mr. JENNER. Would you respond to the Congresslady's question?

Mr. KALMBACH. Yes.

[A short pause.]

Mr. KALMBACH. Yes, I would like to respond to that. The reason for my confusion and concern about that is that in, I think it was in March of this year, I was commanded and directed by Senator Ervin in his office to testify as to a conversation that I had with Mr. Rebozo that I had up to that time regarded as an attorney-client privileged conversation. Now, I had been asked about this conversation both by the Special Prosecutor's office and by the staff earlier of the Senate Select Committee. I had interposed the attorney-client privilege. As you know, the only way that I could testify or reveal the conversation that I had with Mr. Rebozo was either A, that the client waived the privilege, or B, that I be directed by proper authority to testify. I was advised by my counsel that Senator Ervin, in finding that no attorney-client privilege pertained, did have the authority to direct me, and he directed me to testify under penalty of contempt.

Mr. JENNER. Now, Mr. Kalmbach, in receiving your directions from Mr. Mitchell with respect to this transaction, was anything said by Mr. Mitchell as to whether the donation or delivery should be made in cash or otherwise.

Mr. KALMBACH. My best recollection, Mr. Jenner, is that he asked me to make the disbursement, and I don't recall that he used the word, contribution, he just asked me to disburse \$100,000 in cash to Governor Nunn and I did not at that time nor do I at the present time, have an understanding as to the ultimate purpose of that disbursement.

Mr. JENNER. Did you make a report to Mr. Mitchell?

Mr. KALMBACH. Yes, sir. I did.

Mr. JENNER. And what did you say to him?

Mr. KALMBACH. It is my very best recollection that after I arrived in Washington from Louisville, that later in the afternoon, late in the afternoon, I called Mr. Mitchell and advised Mr. Mitchell that the assignment that he had given me had been carried out and that I had transferred and had disbursed to Governor Nunn \$100,000 in cash.

Mr. JENNER. Mr. Chairman, ladies and gentlemen of the committee, I will refer to page 97 of the transcript, recorded Presidential transcripts, and page 97 deals with the March 21 conference with Mr. Dean

and between Mr. Dean and the President, and I call the witness's attention to the following: this is about nine lines down—

the law didn't [unintelligible] [coughs] pulled all through the year.

DEAN. That's right. He sent \$400,000 as he has described it to me somewhere in the South for another candidate. I assume this was the 400—

PRESIDENT. Wallace.

DEAN. To Wallace. Right. And he has maintained a man who I only know by the name of Tony who is the fellow who did the—did the Chappaquidick study.

Now, Mr. Kalmbach, I wish to ask you, did you at any time prior to March 21, 1973, have a conference or discussion with Mr. Dean with respect to the \$400,000?

MR. KALMBACH. Yes, sir, I did. My best recollection is that at some time, and I am not certain as to when it was, I discussed with Mr. Dean, the trust fund that I had had over the years, and advised him of the disbursements, including the \$400,000. And I think that it would be my best recollection that I indicated to him at that time that I understood that those disbursements went, as I say, South. And I wasn't certain then, but I might have indicated to him, but I am not certain that I had a sense that they went to the Wallace, to the Wallace primary to Mr. Brewer, but I was not certain. And I still do not know it as a fact.

MR. DONOHUE. Mr. St. Clair.

MR. ST. CLAIR. Thank you, Mr. Chairman. I gather that Mr. Jenner is finished.

MR. JENNER. Yes, I am.

MR. ST. CLAIR. Thank you.

MR. DONOHUE. The Chair will declare a recess of 15 minutes.

[A brief recess was taken.]

MR. ST. CLAIR. May I proceed, Mr. Chairman?

MR. DONOHUE. You may.

MR. ST. CLAIR. You have now, sir available to you the copy of the transcripts of eight recorded presidential conversations?

MR. KALMBACH. Yes, sir.

MR. ST. CLAIR. Directing your attention to page 97 thereof, from which Mr. Jenner has just read to you a portion, do you see where Mr. Dean says, "That is right. Uh, he sent \$400,000, as he's described it to me, somewhere in the South for another candidate. I assume this was \$400,000, uh, that went"—and the President says, "Wallace."

DEAN. To Wallace. Right. Uh, he has maintained, uh, a, a man who I only know by the name of 'Tony' who is the fellow who did the, the Chappaquidick study and

PRESIDENT. I heard about that.

DEAN. Other, other odd jobs like that. Nothing illegal.

Do you observe that?

MR. KALMBACH. Yes, sir, I do.

MR. ST. CLAIR. Well, do you know whether or not these funds went for the Brewer campaign or the Wallace campaign?

MR. KALMBACH. Mr. St. Clair—

MR. ST. CLAIR. Do you know?

MR. KALMBACH. No, sir, I did not.

MR. ST. CLAIR. Is it clear to you that Dean is telling the President that the \$400,000 went to Wallace?

Mr. KALMBACH. Reading Mr. Dean's reply to the President, it says, "To Wallace, right." That would indicate that to me.

Mr. ST. CLAIR. But you don't have any knowledge of your own?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. Well, now, you told us that you had no knowledge as to the purposes for which the money was transferred to Governor Nunn, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Are you aware of any violation of Kentucky law that resulted from that transfer?

Mr. KALMBACH. I am not, Mr. St. Clair.

Mr. ST. CLAIR. Has anyone alleged any such violation to you?

Mr. KALMBACH. Never at any time.

Mr. ST. CLAIR. Thank you.

With respect to the visit of Mr. Morgan to your, with you and your partner, Mr. DeMarco, which I think you identified as taking place on April 21, 1969—do you recall your testimony on that?

Mr. KALMBACH. Yes, sir, I do.

Mr. ST. CLAIR. Is it your memory that you spent the entire day in the presence of Mr. Morgan and Mr. DeMarco?

Mr. KALMBACH. Mr. St. Clair, I spent the day with those two gentlemen, but frequently during the day, I was not in their presence.

Mr. ST. CLAIR. And you said that you didn't recall any discussion of or execution of any document purporting to be a deed of gift?

Mr. KALMBACH. Yes, sir, that is correct.

Mr. ST. CLAIR. Would it be possible that such a document could have been discussed and executed throughout the day when you were not with them.

Mr. KALMBACH. Yes, sir, it could be possible.

Mr. ST. CLAIR. If your partner, Mr. DeMarco, were to have advised that such a document was signed, would you have any reason to disbelieve him?

Mr. KALMBACH. No, sir, Mr. DeMarco is an honorable and truthful man.

Mr. ST. CLAIR. In that connection, were you present when the President executed his tax returns for the year 1969?

Mr. KALMBACH. Yes, sir, I am. I was. I am sorry.

Mr. ST. CLAIR. Was that the first year in which a deduction for a gift of presidential papers was involved?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. How long were you in the President's presence? Approximately?

Mr. KALMBACH. Approximately 40—35 to 45 minutes, Mr. St. Clair.

Mr. ST. CLAIR. You have been known as and referred to as the President's personal attorney, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And you have served in that role since 1967?

Mr. KALMBACH. No, sir, beginning from and after March of 1969.

Mr. ST. CLAIR. When the President moved to California, he acquired California counsel, approximately that time?

Mr. KALMBACH. Yes, sir. It would be from and after that March date of 1969.

Mr. ST. CLAIR. Prior to that time, he had had New York counsel?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. And one of the first tasks that your firm was requested to perform had to do with the acquisition of the San Clemente property?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Would you tell us, sir, on an average of how often you would see the President in person in your capacity as his personal attorney?

Mr. KALMBACH. Very infrequently.

Mr. ST. CLAIR. How infrequently? As much as once a year?

Mr. KALMBACH. Probably in the totality, not more than once a year.

Mr. ST. CLAIR. So that while you were his personal counsel, you in fact did not consult with him in person more than an average of once a year, is that a fair statement?

Mr. KALMBACH. Yes, sir, that is substantially correct.

Mr. ST. CLAIR. Thank you.

Do you recall during the period when the President was executing his tax returns, your partner, Mr. DeMarco, saying in substance to the President, that you have a good tax shelter for the next, I guess, 4 or 5 years, or words to that effect?

Mr. KALMBACH. That is my recollection, yes, sir.

Mr. ST. CLAIR. And that was a statement made by Mr. DeMarco in his professional capacity as the preparer of this return?

Mr. KALMBACH. Yes, sir, that is my best recollection.

Mr. ST. CLAIR. And did that constitute your judgment as well as your partner's judgment?

Mr. KALMBACH. That is what I understood, Mr. St. Clair, from—at that time from the effect of the gift.

Mr. ST. CLAIR. And the President, in your presence, was advised that it was a good tax shelter by Mr. DeMarco, wasn't he?

Mr. KALMBACH. In my presence at the time of that meeting, my best memory is that Mr. DeMarco advised and reviewed the return, page by page, with the President and there was an understanding and expressed that the gift, the effect of it was to effect tax shelter, not only for 1969 but for several subsequent years.

Mr. ST. CLAIR. Thank you very much.

With respect to the townhouse project, so-called, you said there was a man by the name of Gleason who headed up that project, whose residence was the genesis of the name of the project?

Mr. KALMBACH. Mr. St. Clair, Mr. Jack Gleason, Jack A. Gleason. I didn't regard him as heading up the project. He was what I would term the administrator of the project. He was in the White House, I think working for and under Mr. Dent, and left the White House on or about June or July of 1970, and when he left, he became the administrator of the project, reporting to people within the White House.

Mr. ST. CLAIR. When you say administrator, is this a formal title that he held, do you know?

Mr. KALMBACH. No, sir. That is just my title for Mr. Gleason and that was just describing his administrative duties to follow up and tie the loose ends together.

Mr. ST. CLAIR. In performing his function as administrator, am I not correct that his principal duty was to advise donors as to what campaigns they would recommend moneys be contributed to?

Mr. KALMBACH. Yes, sir. My understanding, Mr. St. Clair, is that one of his principal duties was to follow up with the people from whom I had received pledges. He would then advise these people pursuant to directions that he received from people within the White House, he would advise these contributors as to the manner in which they should draw their checks.

Mr. ST. CLAIR. For example, to Senator X's campaign, for example?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Or Senator Y's campaign?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. He would perform an administrative, advisory type function, is that correct?

Mr. KALMBACH. That is right, sir.

Mr. ST. CLAIR. And was this the concept that you understood embodied in the townhouse project?

Mr. KALMBACH. I am sorry.

Mr. ST. CLAIR. The mechanics of it. Mechanics are an important part, as I gather from your testimony. Was this the concept of the mechanics that the project envisioned?

Mr. KALMBACH. To the extent of Mr. Gleason's involvement as the administrator of the program, that was that particular area.

Mr. ST. CLAIR. And that is how you understood it would work?

Mr. KALMBACH. Yes, sir, it is.

Mr. ST. CLAIR. And if it worked that way, Mr. Gleason would have no funds in his possession at any time, is that right?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. He would simply advise other people to whom he would recommend distributions be made?

Mr. KALMBACH. Yes, sir, that is correct.

Mr. ST. CLAIR. Thank you.

With respect to the improvements on the San Clemente property, I gather you performed no accounting or bookkeeping function or making allocations of costs or anything like that.

Mr. KALMBACH. From the tax aspects, or in, what sense?

Mr. ST. CLAIR. Well, first from the tax aspects.

Mr. KALMBACH. No, sir, not on the tax aspects.

Mr. ST. CLAIR. Did you perform any services in connection with making allocations between the President personally and the U.S. Government?

Mr. KALMBACH. No, sir, I did not. In all instances where there was any question as to whether an expenditure should be made by, either by the Government or by the President, and where in my mind there was a question, I contacted Mr. Ehrlichman or Mr. Haldeman for the decision and the direction in the manner in which to proceed.

Mr. ST. CLAIR. Did you write the checks?

Mr. KALMBACH. Yes, sir, I did.

Mr. ST. CLAIR. I see.

So that on behalf of the President, you would pay that portion allocated to him?

Mr. KALMBACH. That is correct, sir.

Mr. ST. CLAIR. But you played no role in making the allocation?

Mr. KALMBACH. That is correct, sir. My clear memory, as is evidenced by my diaries, Mr. St. Clair, is that I referred all questions as to, where there was a judgment factor, to Mr. Ehrlichman or Mr. Haldeman for a decision.

Mr. ST. CLAIR. And you have no knowledge as to what, if any extent they in turn consulted with the President on these matters?

Mr. KALMBACH. No, sir, I did not.

Mr. ST. CLAIR. Where in exhibit 20¹ reference is made to occupation of premises by Secret Service personnel, in general, are you in a position to tell us whether or not Secret Service personnel in fact occupied or used those portions of the premises that are described herein as being usable by Secret Service?

Mr. KALMBACH. No, sir, Mr. St. Clair. I can't tell you for a fact on that. I just am not knowledgeable on that to the point of being able to state it factually.

Mr. ST. CLAIR. Thank you.

I would like to now shift to another subject; namely, the question of these ambassadorships.

First, let's talk about Dr. Farkas if we may. She was introduced to you by Congressman Wyman of New Hampshire, by telephone, I gather?

Mr. KALMBACH. That is correct, sir.

Mr. ST. CLAIR. Did you know the Congressman?

Mr. KALMBACH. No, I had not known him before that time and have not met or talked to him from that day.

Mr. ST. CLAIR. Did the Congressman in any way indicate to you his views as to her qualifications?

Mr. KALMBACH. I don't recall that he did.

Mr. ST. CLAIR. Did you have any information from any source as to her qualifications?

Mr. KALMBACH. Mr. St. Clair, I don't recall talking to anyone other than Peter Flanigan and Congressman Wyman about Dr. Farkas.

Now, I don't recall in my discussions with those two gentlemen the extent of the background information they gave me about her.

Mr. ST. CLAIR. Mr. Flanigan indicated to you, I guess rather cryptically that he felt she was qualified, or competent, I think was the word you said?

Mr. KALMBACH. Yes, sir, he used the word—I am not certain, Mr. St. Clair, whether he said, "competent" or "capable." But it was either one of those two words.

Mr. ST. CLAIR. Now, directing your attention specifically to the luncheon you had with her, which I gather is the only time you met and talked with Dr. Farkas?

Mr. KALMBACH. Other than when I talked to her on the telephone to agree on a time and place of our luncheon—

Mr. ST. CLAIR. That is simply arranging the luncheon?

Mr. KALMBACH. Yes, sir. But other than that, my best recollection, Mr. St. Clair, is that that is the only time I met and talked with Dr. Farkas.

Mr. ST. CLAIR. And when you first met her, you were under the impression that she was being considered for an appointment at Costa Rica?

¹ See p. 653.

Mr. KALMBACH. That is correct, sir.

Mr. ST. CLAIR. Do you know whether or not she had been considered for that post at any prior time?

Mr. KALMBACH. I have—I did not have any knowledge of any prior consideration. At least I have no recollection of having any such knowledge.

Mr. ST. CLAIR. I see. But she made it quite clear, as I understand your testimony, that for the amount of money she had in mind, she felt that Europe would be more appropriate.

Mr. KALMBACH. Yes, sir, that was my clear impression.

Mr. ST. CLAIR. Now, as I understand your response to her, it was in substance as follows: you said that you would support her candidacy and act as a reference, or words to that effect?

Mr. KALMBACH. That is correct. That is what I stated after, very early on in that conversation, it became apparent to me that she was not particularly interested in Costa Rica. So I then just handled that meeting just the way I would with anyone else who expressed an interest in an appointment of that sort. I was limited by my own authority to say, if you are interested in Europe, that I would act as a reference and would support your candidacy.

Mr. ST. CLAIR. You recognize, do you not, that that language that you use falls quite a bit short of a commitment to get her such a position?

Mr. KALMBACH. Oh, yes, sir, I do.

Mr. ST. CLAIR. And you, by design, refrained from making any firm commitment beyond simply supporting her candidacy?

Mr. KALMBACH. Yes, sir, I absolutely did. I had the belief, early on, that she was not particularly interested in Costa Rica. If she had expressed an interest in Costa Rica, my approach might have been much different, akin to the approach when I talked to Ambassador Symington and Ambassador deRoulet. But when she expressed an interest in Europe, then I had no authority to go beyond my customary practice, which was to indicate reference and support.

Mr. ST. CLAIR. And did you support her candidacy and agree to act, and did you act as a reference for her?

Mr. KALMBACH. No, sir; I did not. After that one meeting, she—I felt that she was, she did not follow up. I did not hear from her again. I did not approach her again. I simply, when the campaign on or about February 15, when I gave all my base records over to Mr. Stans, I just showed on my sheets, Mr. St. Clair, Dr. Farkas' name and \$250,000 as the goal figure. But I did not do anything to support her candidacy or do anything further.

Mr. ST. CLAIR. I see. But you were clear that in your only meeting face to face with her, you made no commitment with respect to any European appointment?

Mr. KALMBACH. Absolutely none. I had no authority to do so.

Mr. ST. CLAIR. Thank you.

Now, directing your attention to Ambassador Symington and Ambassador deRoulet—

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR [continuing]. It is a fact, of course, that neither one of them received what they obviously importuned you to get for them, is that correct?

Mr. KALMBACH. Yes, sir; that is correct.

Mr. ST. CLAIR. And it is also true that you in fact offered the money back to both of them?

Mr. KALMBACH. That is correct, pursuant to the authorization of Mr. Flanigan, which had been confirmed by Mr. Haldeman.

Mr. ST. CLAIR. And you said that Mr. deRoulet graciously declined to take his money back?

Is that because he had planned as he indicated to contribute that in any event to the President's campaign?

Mr. KALMBACH. Well——

Mr. ST. CLAIR. If you know.

Mr. KALMBACH. Mr. St. Clair, he just indicated to me, almost like it was an affront for me to offer his, the \$50,000 that he had already contributed, to return it to him. He said he was glad to contribute to the President's campaign.

Mr. ST. CLAIR. Even though he knew he was not going to get what he had been seeking?

Mr. KALMBACH. Well, at that point; and I think that was in September of 1971, Mr. St. Clair, I indicated to him, consistent with the direction I had received from Mr. Flanigan and from Mr. Haldeman, that I felt that it looked as if we might not be able to honor that commitment.

Mr. ST. CLAIR. So you were offering the money back because you didn't think you could deliver?

Mr. KALMBACH. That is correct. That is substantially what I told him; right.

Mr. ST. CLAIR. Now, with Mr. Symington, you told us, as I recall your testimony, that he declined to accept the money back, saying he was quite happy to have the commitment that he had.

Mr. KALMBACH. Exactly right.

Mr. ST. CLAIR. Do you mean to infer that he was insisting that he get what he paid for?

Mr. KALMBACH. That is exactly my understanding at the time.

Mr. ST. CLAIR. It is a fact he did not get what he had, as I say, importuned you to get for him?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Well, did he ever get his money back?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. Are you sure about that?

Mr. KALMBACH. To my knowledge, he never received his money back.

Mr. ST. CLAIR. And he didn't get what he thought he had paid for?

Mr. KALMBACH. No, sir; and following that meeting, Mr. St. Clair, he completed his pledge. He gave \$50,000 in the 1972 campaign, making a total of \$100,000 that he contributed.

Mr. ST. CLAIR. With respect to Mr. deRoulet, with all due respect to the gentleman, do you recall that by reason of certain events, he was eventually recalled by the State Department?

Mr. KALMBACH. Yes, sir; I do.

Mr. ST. CLAIR. Recalling by the State Department is a gracious way of saying he is fired, isn't it?

Mr. KALMBACH. Well, it was a matter, and I read it in, I think, the news magazine, tantamount to what you have said.

Mr. ST. CLAIR. Am I correct in that?

Mr. KALMBACH. Yes, sir; I think substantially correct.

Mr. ST. CLAIR. So not only did he not get what he "paid for," but he eventually got discharged from his position; is that right?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Thank you.

Now, more importantly, however, you have indicated that you had through Mr. Higby a clearance on Mr. Symington and—at least?

Mr. KALMBACH. Well, I think it was more than a clearance, Mr. St. Clair.

Mr. ST. CLAIR. A commitment.

Mr. KALMBACH. A commitment. I was directed to advise Mr. Symington that a commitment would—was—had—was made to meet what he had requested.

Mr. ST. CLAIR. And then you told us you began to get some misgivings about whether or not it was in fact going to happen?

Mr. KALMBACH. Yes, sir, that is correct.

Mr. ST. CLAIR. And you felt that this was something of a matter of honor with you?

Mr. KALMBACH. I certainly did.

Mr. ST. CLAIR. I gather you didn't think there was anything illegal about it?

Mr. KALMBACH. Well, I certainly was concerned. I didn't know about the legality or illegality. I knew that a commitment had been given to this man. I was a participant in the sense that I had relayed the commitment from Mr. Higby to Mr. Symington, and I frankly felt that if a commitment is made to a person from the Office of the Chief of Staff of the White House, that commitment should be lived up to precisely.

Mr. ST. CLAIR. Whether it is legal or illegal?

Mr. KALMBACH. Well, I didn't think about the legality of it, Mr. St. Clair.

Mr. ST. CLAIR. Well, then, I think maybe you perhaps have answered my question. It did not occur to you then that it was illegal, if it was. Is that correct?

Mr. KALMBACH. That is correct; yes, sir.

Mr. ST. CLAIR. Well, now you found upon inquiry that there was a resistance from Mr. Peter Flanigan?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And you had a number of conversations with Mr. Flanigan about this?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And you complained to him on occasion rather vociferously about, why renege on these commitments, did you not?

Mr. KALMBACH. Yes, sir, I did.

Mr. ST. CLAIR. And didn't he tell you that no one had any authority on the part of the President to make any such commitments?

Mr. KALMBACH. Yes, sir, exactly.

Mr. ST. CLAIR. And that included Mr. Haldeman, didn't it?

Mr. KALMBACH. Well, his remark, Mr. St. Clair, was to the effect that, Herb, you know that commitments can't be given.

Mr. ST. CLAIR. Well, didn't he also say to you that no one has authority to make those commitments?

Mr. KALMBACH. In substance, that is what he said.

Mr. ST. CLAIR. And he included Mr. Haldeman in that in substance, did he not?

Mr. KALMBACH. Well, within that general statement, I would include, Mr. Haldeman.

Mr. ST. CLAIR. And ultimately, Mr. Flanigan's view prevailed, did it not?

Mr. KALMBACH. In the sense that Mr. Symington and Mr. deRoulet never did receive another appointment?

Mr. ST. CLAIR. And those are the only two commitments that you have told us anything about?

Mr. KALMBACH. That is correct.

Mr. SEIBERLING. Mr. Chairman, it seems to me that counsel is going a little far in putting words in the witness' mouth.

Mr. LATTI. Go ahead and object. We have listened to this.

Mr. DONOHUE. You may proceed, Mr. St. Clair.

Mr. ST. CLAIR. Thank you, Mr. Chairman.

Did you talk with Mr. Haldeman during this period when you began to get misgivings about whether or not these commitments were going to be carried out?

Mr. KALMBACH. Yes, sir, it is my clear recollection that I did.

Mr. ST. CLAIR. And he told you, did he not, that you would have to clear this with Pete Flanigan?

Mr. KALMBACH. Yes, sir, he said words to the effect, if I may, Mr. St. Clair, he said, "Pete Flanigan's the block here, or is blocking this. Peter's the one you are going to have to work with to accomplish these, to meet these commitments."

Mr. ST. CLAIR. Did you infer from that conversation that whatever Mr. Haldeman thought about it, you would have to clear it with Flanigan, or words to that effect?

Mr. KALMBACH. Mr. St. Clair, I am not certain on this point. I don't know whether Mr. Haldeman knew that Mr. Flanigan would say no and he was using Mr. Flanigan to block this or what, because I felt that Mr. Haldeman, in the order of command at the White House, certainly was senior to Mr. Flanigan. I frankly didn't know. I thought that I was being shunted aside and he was putting it off on Mr. Flanigan, frankly.

Mr. ST. CLAIR. Did anyone ever confirm that feeling to you?

Mr. KALMBACH. No, sir, that is my feeling.

Mr. ST. CLAIR. Did you talk with Mr. Flanigan yourself?

Mr. KALMBACH. Several times.

Mr. ST. CLAIR. And you understood that he was adamant about any such commitments?

Mr. KALMBACH. Yes, sir, he certainly was.

Mr. ST. CLAIR. And did you know that it was Mr. Flanigan who made the recommendations to the President?

Mr. KALMBACH. Yes, sir, I did.

Mr. ST. CLAIR. Now, with Mr. deRoulet, in your discussions with him, as I understand your testimony, he simply inquired of you if there was—if he was on any black list or if there was any reason known within the administration why, in the normal course, he might not be considered for promotion.

Is that a fair statement?

Mr. KALMBACH. That is a fair statement.

Mr. ST. CLAIR. He didn't put it to you as bluntly as Mr. Symington had, I gather?

Mr. KALMBACH. No, sir, he did not.

Mr. ST. CLAIR. I see. And you made inquiry and found that there was no blacklist with respect to his performance at the time, in any event, is that right?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. And I gather you consulted with Mr. Stans in this regard?

Mr. KALMBACH. I have so testified, Mr. St. Clair.

Mr. ST. CLAIR. And I forget who else?

Mr. KALMBACH. And with Mr. Haldeman.

Mr. ST. CLAIR. And they both advised you that there was nothing in his record which indicated that he could not be moved to a larger post?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. And you so advised him?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Did you consider that a firm commitment to get him a larger post at a set time and place?

Mr. KALMBACH. In my discussions with Mr. Haldeman at the time that he directed me to take \$50,000 in cash and advise me to take cash whenever you can get it, and in my subsequent conversations with Mr. Haldeman, I had the clear understanding from our discussions that there was a commitment to Mr. deRoulet for a larger post.

Mr. ST. CLAIR. That is the result of your conversations with Mr. Haldeman?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. In your conversations with Mr. deRoulet however, did you not simply advise him that you could find no reason why he couldn't be promoted?

Mr. KALMBACH. I reported back to Mr. deRoulet that consistent with what he had requested of me that I'd checked with Mr. Stans and Mr. Haldeman and they both had advised me that there was no reason that he could not be elevated to a more important post at a later time. He then advised me that his pledge was firm.

Mr. ST. CLAIR. Did you consider that conversation to be the equivalent of the firm commitment that you had with Mr. Symington?

Mr. KALMBACH. I think, Mr. St. Clair, my state of mind was that, as I talked to Mr. Haldeman, it became clear to me that he felt and advised me that there was a commitment outstanding with Mr. deRoulet of the same stature of the commitment in favor of Mr. Symington.

Mr. ST. CLAIR. But my inquiry is as to your conversations with the applicant, Mr. deRoulet. Do you consider that you made as firm a commitment with him in the conversations you had with him as apparently you did with Mr. Symington?

Mr. KALMBACH. I think at the outset, I think the commitment—I didn't understand—I thought of it as a negative commitment in a sense. And in my discussions, and Mr. deRoulet had known Mr. Haldeman when they were young in Los Angeles, and it was my understanding

that this, in my discussions with Mr. Haldeman, it grew into what I considered a firm commitment and I advised Mr. deRoulet from time to time of the fact that this was a commitment.

Mr. ST. CLAIR. You knew that Mr. Flanigan was of the firm view that no one had the authority to make any such commitments?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And you made them anyway?

Mr. KALMBACH. Well, I think this was prior to the time of my discussion with Mr. Flanigan.

Mr. ST. CLAIR. I see.

When do you recall first running into Mr. Flanigan as a block or bar in these matters?

Mr. KALMBACH. It would be my best recollection, Mr. St. Clair, that this was in the—in 1971, I think probably in the spring of 1971. I can't be certain.

Mr. ST. CLAIR. And these discussions you had with Mr. Symington and Mr. deRoulet were in the fall of 1970, is that correct?

Mr. KALMBACH. Well, they were in the spring, summer, and fall of 1970.

Mr. ST. CLAIR. Mr. Kalmbach, is it fair to—may I ask you this? Did you seek to avoid making commitments in connection with campaign fundraising wherever possible?

Mr. KALMBACH. I never thought, Mr. St. Clair—it was clear to me that it wasn't a matter of seeking to avoid. I had no authority to make commitments.

Mr. ST. CLAIR. So that unless you had express authority in these two instances, you just didn't make commitments, is that right?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Commitments other than to support the candidacy, or something like that?

Mr. KALMBACH. That is correct, and that the limit of the—

Mr. ST. CLAIR. You have been engaged in raising political funds for a number of years?

Mr. KALMBACH. Certainly, from 1968.

Mr. ST. CLAIR. And even before that, I gather?

Mr. KALMBACH. To a lesser degree, yes, sir.

Mr. ST. CLAIR. So as an experienced political fundraiser, you don't go around making commitments?

Mr. KALMBACH. No.

Mr. ST. CLAIR. As a matter of course, do you?

Mr. KALMBACH. Absolutely not.

Mr. ST. CLAIR. Was Mr. Symington and his wife—were they friends of yours? I observed you use the word "Fife," which is his first name?

Mr. KALMBACH. Well, he was an acquaintance and I never, to my knowledge, have never met Mrs. Symington.

Mr. ST. CLAIR. I see. I have to ask this because the name has, of course, some familiarity. Is there any relationship to the Senator?

Mr. KALMBACH. I think he is a distant cousin of the Senator.

Mr. ST. CLAIR. I see. Now, was deRoulet a friend of yours?

Mr. KALMBACH. He became a friend of mine, yes, sir.

Mr. ST. CLAIR. And he and his wife are both friends of yours?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And I gather you spent some time with them in, was it Jamaica?

Mr. KALMBACH. Yes, sir, on one occasion, we went to Jamaica and spent several days with them.

Mr. ST. CLAIR. I see. And when you made whatever commitments you did make, as I understand it, you did not at that time feel there was anything improper about doing so?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. Is that correct?

Mr. KALMBACH. I relayed what I understood to—I had been authorized to make these commitments and I didn't understand impropriety.

Mr. ST. CLAIR. All right. Now, if I may turn to another subject, please, namely, your activities in connection with Mr. Dean and the Watergate matter. But before I do that, I would like to ask you whether or not you ever reported to the President with respect to your political activities in connection with his campaign?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. You are quite firm in that?

Mr. KALMBACH. I am absolutely firm. I have no recollection of ever reporting to him on my—other than in a very general way, reporting to him on my fund raising activities.

Mr. ST. CLAIR. In fact, you have testified, have you not, that you felt it would be inappropriate?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. For you to report on such matters to the President?

Mr. KALMBACH. Other than in a very general way.

Mr. ST. CLAIR. I see.

And again you have testified that you don't remember that you ever talked to him about any of these trust funds or other political funds, is that correct?

Mr. KALMBACH. I have no recollection of ever talking to him about the trust funds.

Mr. ST. CLAIR. Well, now, directing your attention to the Watergate matter, as I understand it, your introduction to that situation came as a result of a phone call from Mr. Dean late in the month of June.

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. 1972. And I think you said it was around the 28th or so?

Mr. KALMBACH. It was on the 28th of June 1972.

Mr. ST. CLAIR. So this would be a period, now, of 11 days after the break-in?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. And as a result of the phone call, you came almost immediately to Washington and met with Mr. Dean?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And you have described to us how you met out in—was it Lafayette Park?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And he told you about the necessity for making these payments?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And he told you in some form of words that it was a very legitimate project?

Mr. KALMBACH. He stated it was for the purpose of providing these defendants with attorney's fees and support for their families.

Mr. ST. CLAIR. Now, if he has testified, sir, that almost immediately following the break-in, he became involved in a criminal conspiracy to obstruct justice, he did not advise you of that fact, did he?

Mr. KALMBACH. He certainly did not.

Mr. ST. CLAIR. If he had so advised you, you would have had nothing whatsoever to do with it, isn't that right?

Mr. KALMBACH. Of course not.

Mr. ST. CLAIR. Would you have expected him to tell you about this if in fact he was engaged in a criminal conspiracy, as he has testified?

Mr. KALMBACH. As a friend of mine, I would certainly have expected him to have been honest with me.

Mr. ST. CLAIR. In any event, he did not disclose any such things to you, is that right?

Mr. KALMBACH. No, sir, he stated what I have already testified as to what he stated to me in the park.

Mr. ST. CLAIR. And in fact, he never disclosed to you that he was engaged in such a criminal conspiracy, did he?

Mr. KALMBACH. Never at any time.

Mr. ST. CLAIR. Do you know of any reason why he didn't disclose that fact to you?

Mr. KALMBACH. I think that he must have known that if he had stated to me that he was asking me to do something illegal, I probably would have, most certainly would have gone immediately across the street to speak to Mr. Ehrlichman or Mr. Haldeman or to the President himself, and I would not visualize that he would have asked me, ever. It would be unbelievable to me to have the President's counsel ask me to do an illegal act.

Mr. ST. CLAIR. How long did you associate with Mr. Dean in this project?

Mr. KALMBACH. Oh, from June 29 through to September 21 is when I gave my final accounting.

Mr. ST. CLAIR. That would be several months, then?

Mr. KALMBACH. Approximately 2 months.

Mr. ST. CLAIR. And during that period, you made a, facilitated, at least, a number of transactions, principally at his direction?

Mr. KALMBACH. Principally at this direction, that is correct.

Mr. ST. CLAIR. You told us that Mr. Dean, when you were out there in the park, was making rather expansive gesticulations of some kind, and he asked you to do that as well?

Mr. KALMBACH. He suggested to me that I do that.

Mr. ST. CLAIR. I don't mean to waste much time. Just out of curiosity, did you ever figure out why he asked you to do that?

Mr. KALMBACH. No, sir. I have the recollection that he suggested that and indicated to me that if we were observed, it would have some effect, but it just was—it went right past me. I don't know.

Mr. ST. CLAIR. Was there any reason why he wanted attention attracted to you by doing so?

Mr. KALMBACH. No, sir, I didn't understand it. But he did in fact suggest that.

Mr. ST. CLAIR. At one point, as you told us, you became somewhat uneasy about your role?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. I am curious, sir. When Mr. Dean first proposed this to you, the suggestion of absolute secrecy, I take it, came from him?

Mr. KALMBACH. It certainly did.

Mr. ST. CLAIR. You made some suggestion about, well, why don't we draw a trust fund or a trust instrument of some kind?

Mr. KALMBACH. No, sir. I think, Mr. St. Clair, that when he began talking about supplying these defendants with funds to help support their families and for their attorneys, my response was, well, I think we should set up a defense fund and perhaps, in the interim, perhaps these people could mortgage their home or raise immediate money.

Mr. ST. CLAIR. And he indicated there was no time for that?

Mr. KALMBACH. That is my clear recollection as to his response.

Mr. ST. CLAIR. Whatever happened to your suggestion that for the long run, some trust fund be set up, rather than the short run?

Mr. KALMBACH. I don't know.

Mr. ST. CLAIR. You never suggested it again?

Mr. KALMBACH. No, sir. I don't recall that I did. It just—there was never any movement in that area that I could see.

Mr. ST. CLAIR. Mr. Kalmbach, I apologize for this somewhat personal question, but you are a lawyer?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. You had considerable experience in political fund-raising and in other matters? Why did you do it?

Mr. KALMBACH. Well, Mr. St. Clair, responding to that question, I just felt, and I have testified to this effect before the Senate select committee, but I felt at the time that someone in authority, top authority—and I have stated to this committee that I thought probably it was Mr. Mitchell, someone had directed these people to go forward on this crazy, stupid scheme, but when the thing went awry, for whatever reason, that someone, that someone at least had the compassion to think that we should provide these people with lawyers and with their family support. I felt that a moral obligation was felt on the part of someone, and in my own mental view—and it is just the way I feel—I thought it was a human and decent thing to do.

Mr. ST. CLAIR. And Mr. Dean led you to believe that it was, did he not?

Mr. KALMBACH. Yes, sir, he did. I—

Mr. ST. CLAIR. Mr. Dean didn't mention anyone else that had directed him in turn, did he?

Mr. KALMBACH. Absolutely not.

Mr. ST. CLAIR. So that from whatever Mr. Dean told you in any event, you had no idea whether Mr. Mitchell or anyone else was the father of this program?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. All right.

Well, there did come a time when you were concerned about it because of the nature of the activities, I gather, and you went to see Mr. Ehrlichman about it?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Did Mr. Ehrlichman say anything to you about his feeling that this was a moral obligation?

Mr. KALMBACH. Well, he used language, Mr. St. Clair, that was tantamount to that. He used the word, I think, "humanitarian." I think he used a word to indicate that this was in fact to be helpful to these people. There was clear in my conversation with Mr. Ehrlichman, it was clear that he was regarding this in the same manner as I had been regarding it theretofore.

Mr. ST. CLAIR. And he was a friend of yours?

Mr. KALMBACH. Absolutely.

Mr. ST. CLAIR. And had been a close friend of yours?

Mr. KALMBACH. And I regarded him as a close friend and a man in whom I had trust.

Mr. ST. CLAIR. And you know of no reason why he would misuse you; would he?

Mr. KALMBACH. No, sir; I did not.

Mr. ST. CLAIR. Do you have any reason, therefore, to believe that he didn't believe this was for humanitarian reasons?

Mr. KALMBACH. I have no reason to believe he didn't believe that.

Mr. ST. CLAIR. And that, you talked with him about when?

Mr. KALMBACH. It was at 3:30 in the afternoon on July 26, 1972.

Mr. ST. CLAIR. In reliance on your conversation with him, then, you continued on the project until early September as you have told us?

Mr. KALMBACH. Mr. St. Clair, I went out of that office feeling that I had been silly and worried about something that I needn't be worried about. Mr. Ehrlichman had just confirmed my initial understanding from Mr. Dean that this was for proper purposes, the decent thing to do for these people. And I went out of that office without any, without a concern and went home to approach the first contributor who would contribute to this program.

Following the handing over of the \$75,000 that I received from Mr. Jones and Mr. Ulasewicz's words of caution, which was in the first week of August, all of this came back on me and I did not raise any additional funds from and after that date in early August.

Mr. ST. CLAIR. Did Mr. Dean, from time to time, also reconfirm the legitimacy of this operation to you in any form of words?

Mr. KALMBACH. The words, when I would talk to him about this, was always for attorney's fees and for family support, and there was never any hint to me or statement to me as to improper purposes.

Mr. ST. CLAIR. Go back a bit, if I may. You had, as you have indicated to us, an association with the President's financing of campaigns, starting at least on a national basis in 1968.

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. I observed in my notes something to the effect that you have a sort of limited period of time within which you agreed to serve as associate, was it, finance chairman?

Mr. KALMBACH. In 1972, yes, sir.

Mr. ST. CLAIR. In 1972?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. What was the reason for this limited period of time, if I may?

Mr. KALMBACH. Well, if I can, in responding to that question, Mr. Chairman, try to be as brief as possible, I had been active a very

major part of my time from and after November 1970 up until February 15, 1972, as the President's principal fundraiser. And at that time, when Mr. Stans had been asked and had accepted the post of finance chairman for the campaign, I wanted to go home to California to the practice and I figured that I had spent almost—well, 15, 16, or 17 months in constant fundraising, and I, frankly, felt I had done enough.

When I talked to Mr. Stans, he insisted that I be his associate chairman. I turned him down. He insisted two or three times that I be his associate finance chairman. And finally, when I recognized, as I full well did, that he had resigned from the Cabinet to take on this onerous job of being the finance chairman for the President for 1972, I advised Mr. Mitchell, Mr. Haldeman, and Mr. Ehrlichman that I felt the least I could do is to be his associate chairman until the Federal Election Campaign Act of 1971 became effective, which was on April 7, 1972.

I so advised Mr. Stans. He understood. He agreed on that basis.

Now, to complete my answer, at the end of March, I advised Mr. Stans that I was, I reminded him that I was going home on April 7, and he laughed, and said, of course, you are not.

I said, I am. Then he circulated—I recall him circulating a letterhead within the office with my name on it as associate finance chairman. I recall with particularity, Mr. St. Clair, getting a felt pencil and drawing a line through my name and through the title and giving him a written resignation.

Now, that is as brief as I can be.

Mr. ST. CLAIR. He didn't give up easily, in other words?

Mr. KALMBACH. No, sir; he didn't. But then when I did that, he laughed and said he understood.

Mr. ST. CLAIR. Well, the reason I am asking is that in your conversation with Mr. Ehrlichman on April 19, 1963, Mr. Ehrlichman on the first page thereof says, "We had promised you that you would not be run pillar to post by Maurice Stans."

What does that reference mean?

Mr. KALMBACH. Well, Mr. St. Clair, what that means, and I don't think it is as important as it is stated, in talking to Mr. Ehrlichman and Mr. Haldeman, I told them about Mr. Stans being so insistent on my staying and spending another several months in the finance area, and they said that, there are other things, Herb, that you are involved in and we will just advise him that we will be using you for other assignments. And I knew that that would be helpful as far as Maury understanding that I had done everything that I could do in the finance area.

Now, it would be my memory that they did inform Maury about that, but Maury always had the understanding, it was clear to me and clear to him, that I was going to go home on April 7. I did do some additional fund raising for him subsequent to April 7, but this, as Mr. Ehrlichman said, the pretext of having me do assignments for the White House, I don't think was as major as his statement would indicate.

Mr. ST. CLAIR. During your relationship with Mr. Dean, you told us that you received most of your instructions from him. How were these relayed to you normally?

Mr. KALMBACH. Normally, Mr. St. Clair, they were by telephone. There were instructions, I think, in person, but I think principally by telephone.

Mr. ST. CLAIR. You mentioned that during this period of time that you were performing these services, that there was a great deal going on in the press about the Watergate matter. To what—what do you now recall was the general tenor of the matters appearing in the public press during that period from the end of June until early September?

Mr. KALMBACH. Well, I don't recall except that there was press on the Watergate break-in and whatever it was that was in the press was disturbing to me, and when you combine the secrecy, this 007 type atmosphere that I was operating in with secrecy, and whatever press that was going on at that time together, gave me this concern. And then adding particularly Mr. St. Clair, these cautionary words that I received from Mr. Ulasewicz.

Mr. ST. CLAIR. Well, when Mr. Dean told you that absolute secrecy was required, what did you understand was the reason for absolute secrecy?

Mr. KALMBACH. Well, I had understood that the absolute secrecy was to avoid having the press learn of the payments to these individuals and the misinterpretation that might be put on these payments. That was what I understood.

Mr. ST. CLAIR. And that, I take it, is why you felt it was appropriate to maintain such absolute secrecy?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Now, in your talk with Mr. Ehrlichman when you raised with him the propriety of your actions, have you told us everything that you can recall that he said to you and you said to him?

Mr. KALMBACH. To the very best of my recollection, Mr. St. Clair, I have.

Mr. ST. CLAIR. According to my notes, no mention was made of the President whatsoever in this course of that conversation. Am I correct?

Mr. KALMBACH. That is correct. I recall no mention of the President.

Mr. ST. CLAIR. Just to be sure the record is clear, did you ever discuss this project with the President?

Mr. KALMBACH. Never at any time.

Mr. ST. CLAIR. Nor he with you?

Mr. KALMBACH. No, sir, never at any time.

Mr. ST. CLAIR. If I may have just a moment, Mr. Chairman, I would like to review my notes and maybe I can conclude within a few minutes.

I would like now, sir, if I may, to direct your attention to your activities with AMPL. Incidentally, how did you refer to them when you were dealing with that organization?

Mr. KALMBACH. I think I referred to them as the milk producers. I might have used that acronym at times, but I think I used, I talked usually about the milk people or milk producers.

Mr. ST. CLAIR. You were introduced to them, as I understand it, by Mr. Colson?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. Then my memory is wrong. Who were you introduced to them by?

Mr. KALMBACH. By Mr. Mitchell. The initial introduction.

Mr. ST. CLAIR. Were you then turned over—were they, as far as the White House aspect of this contact is concerned, turned over to Mr. Colson? Do you recall?

Mr. KALMBACH. Mr. St. Clair, my recollection is, as I have testified, that I met with Mr. Colson, I think in his office, in the last part of 1970 with many others, and I have testified to this before. That was at the time that I was advised of the \$2 million commitment to the President's 1972 campaign.

It is also my very best recollection that Mr. Colson was present at the meeting in the Madison Hotel with these individuals when there was a discussion that was more involved in the mechanics of effecting these contributions to the President's 1972 campaign.

Mr. ST. CLAIR. Now, at some time—before that, you had a number of conversation with representatives of the organization, as I recall your testimony, dealing in part at least with mechanics.

Mr. KALMBACH. Yes, sir, I did. I had several conversations dealing with that area, yes, sir.

Mr. ST. CLAIR. Was the question of mechanics ever finally resolved?

Mr. KALMBACH. Well, I think the best answer to that, Mr. St. Clair, is that the mechanics seemed to be set and then it would become unstuck. There was an understanding as to the procedures that would be followed and who was to do what and then there was a lack of followup by—in following the blueprint that had been agreed upon.

Mr. ST. CLAIR. Whose responsibility was it to carry out the agreed-upon mechanics?

Mr. KALMBACH. Well, I think there were several involved in that, Mr. St. Clair.

Mr. ST. CLAIR. Who principally?

Mr. KALMBACH. Well, I recall that Mr. Harrison, as the attorney in the 1970-71 period, was to receive—as I remember it, he was to receive checks. He would then give the checks, I think to Mr. Sloan, and there were committees to be established. And I know that a Mr. Bennett was, took on an assignment of establishing some 100 committees. He had the responsibility of finding the chairman. I think Mr. Sloan found the secretary-treasurers. I think that there was a responsibility later by Mr. Nunn, after the dinner, in 1971, as to the procedures. But there were many involved in this, Mr. St. Clair, and there was confusion and I recall at various times being advised by Mr. Haldeman, and particularly Mr. Haldeman's aide, Mr. Strachan, that there seemed to be some problem as to effecting these contributions.

Mr. ST. CLAIR. Ultimately, if you know, how much in fact was contributed?

Mr. KALMBACH. Well, sir, my best recollection is that in January of 1972, in meeting, I think, with Mr. Jacobsen and Mr. Nelson, I think we met here—we met in Los Angeles at one point and I think we also had a meeting in Washington—that I was advised as to the following, that the pledge was reduced from \$2 million to \$1 million and I was advised that there had been approximately \$230,000 or thereabouts contributed to date, leaving a balance to be contributed on the lower pledge of \$1 million of \$750,000.

Mr. ST. CLAIR. Do you know how much ultimately was in fact paid?

Mr. KALMBACH. No, sir, I do not. I know that subsequent to that meeting with those two men in January, I met with milk people, I think two times, and I don't recall what was ultimately contributed, but I have a very clear recollection, Mr. St. Clair, of turning the milk people over on March 16 of 1972.

Mr. ST. CLAIR. That is when they approached you about calling off the antitrust suit?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. It was about that time?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. Well, when—if you know, the milk people were the recipient of antitrust proceedings, were they not?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. And when were those instituted and the nature of the proceedings, if you know?

Mr. KALMBACH. Well, I think they were instituted, antitrust action was instituted on or about February 1 of 1972.

Mr. ST. CLAIR. And do you know whether or not preliminary to that there had been discussions with respect to claims of violations of the antitrust laws?

Mr. KALMBACH. I am not certain, Mr. St. Clair, as to the level of my knowledge theretofore.

Mr. ST. CLAIR. Well, you turned these people off, as you put it, sometime in March of 1972, did you not?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. And that was after the antitrust proceedings had been commenced against them?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Were those criminal or civil proceedings, if you know?

Mr. KALMBACH. I am not certain. I think they were civil, but I am not certain on that.

Mr. ST. CLAIR. And if you know, are they still pending?

Mr. KALMBACH. I don't know.

Mr. ST. CLAIR. Have you been asked to testify in connection with those proceedings at any time?

Mr. KALMBACH. No, sir. I have no recollection of having been asked to do so.

Mr. ST. CLAIR. Efforts were made by Mr. Mehren, as I understand it, on behalf of AMPI to get you to intercede in connection with these proceedings?

Mr. KALMBACH. They certainly were.

Mr. ST. CLAIR. And you flatly refused, did you not?

Mr. KALMBACH. Yes, sir, I did, and that is my very best recollection of the conversation I have testified to on April 4, 1972, telephone conversation.

Mr. ST. CLAIR. And you confirmed that later in March of that same year, did you not?

Mr. KALMBACH. No, sir. That was, Mr. St. Clair, April 4 was a confirmation of my meeting of March 16, 1972.

Mr. MAYNE. Mr. Chairman, point of clarification.

Is reference made to Dr. George Mehren, the general manager of AMPI, in those last two questions?

Mr. ST. CLAIR. I don't know.

Could you answer that for us?

Mr. KALMBACH. Yes, sir.

Mr. MAYNE. Well, Mr. Chairman, I was referring to counsel's questions, didn't Mr. Somebody supersede or ask you to supersede?

Was that reference to Dr. George Mehren by counsel?

Mr. ST. CLAIR. If I may respond?

Mr. DONOHUE. You may.

Mr. ST. CLAIR. I don't happen to know Dr. George Mehren. I was simply reciting what I understood the direct examination to be about a Mr. Mehren. It could very well be, however, the same person.

Mr. MAYNE. Could the witness make that clear? He apparently wants to contribute something further?

Mr. KALMBACH. Yes, sir, Congressman, that is Dr. George Mehren and my testimony this morning was to the effect that it was my clear recollection that on or about April 4, 1972, in talking to Dr. Mehren by telephone, Dr. Mehren indicated to me that he had checks or funds that he was ready to turn over to the campaign in the form of a substantial contribution, but that he, in my understanding at least, of this conversation with Dr. Mehren, he asked that I intercede with the White House relative to antitrust matters. I flatly turned him down on that and the conversation ended on somewhat of a sharp and rather abrupt note.

Mr. MAYNE. Thank you.

Mr. ST. CLAIR. Directing your attention to I think it's March 23 or 24, which date was it that you met with Mr. Ehrlichman in his office at around 5:30 in the afternoon.

Mr. KALMBACH. That was on March 24, 1971.

Mr. ST. CLAIR. And during the course—

Mr. KALMBACH. And that is my recollection. I could check that with my itinerary agenda.

Mr. ST. CLAIR. Well, perhaps we have that here some place.

Mr. KALMBACH. I have it.

Mr. ST. CLAIR. Well, why don't you check your copy.

Mr. KALMBACH. And that is correct. I met with him on March 24, 1971, or that is my very best recollection having met with him on or about at 5:30 that afternoon in his office.

Mr. ST. CLAIR. And he, as I understand it, asked you to meet with Mr. Chotiner and another representative of the milk producers?

Mr. KALMBACH. That is my recollection, yes, sir.

Mr. ST. CLAIR. Later that evening?

Mr. KALMBACH. Yes, sir. And my recollection, Mr. St. Clair, is that he had talked to me the previous day and had asked me to save this open date, which my secretary typed up on the itinerary agenda as 11 o'clock, after dinner meeting to be scheduled.

Mr. ST. CLAIR. As I see here, and he asked you or rather according to my notes, he said that on that occasion, the pledge would be reaffirmed, is that what he said?

Mr. KALMBACH. That is my best recollection, yes, sir, that he asked me to meet with Mr. Chotiner, and I think with a representative of the milk producers, and that I should expect a reaffirmation of the pledge to the milk producers' \$2 million pledge to the campaign.

Mr. ST. CLAIR. Have you told us all that you can recall of that conversation with Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir. And that is essentially all I can recall of that conversation.

Mr. ST. CLAIR. Did Mr. Ehrlichman say anything to you about what his decision was or was going to be with respect to the price supports?

Mr. KALMBACH. No, sir. I have no recollection of that.

Mr. ST. CLAIR. It's your testimony then you did not know whether the price supports were going to be changed from what had previously been announced, is that correct?

Mr. KALMBACH. At this time, and at this time of 5:30 or whenever it was, all I knew was that Mr. Ehrlichman had asked me to meet with Mr. Chotiner and a representative of the milk producers later that evening.

Mr. ST. CLAIR. And you had no knowledge about what decision was or wasn't going to be made with respect to the price support, is that correct?

Mr. KALMBACH. I had no recollection. I have no recollection of having any knowledge as to what was expected in the price support area.

Mr. ST. CLAIR. So that when you later met with Mr. Chotiner, and who was it, Mr. Nelson?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. I take it you did not give them any information regarding the proposed announcements regarding price supports?

Mr. KALMBACH. I gave them none, and I was there not to solicit a reaffirmation, but I expected a reaffirmation.

Mr. ST. CLAIR. I see, but based on what Mr. Ehrlichman had told you?

Mr. KALMBACH. That is my recollection, yes, sir.

Mr. ST. CLAIR. But you had no information to give them regarding price supports and gave them none, is that correct?

Mr. KALMBACH. That is correct.

Mr. ST. CLAIR. Made no promises of any kind?

Mr. KALMBACH. None.

Mr. ST. CLAIR. Made no predictions of any kind with respect to price supports?

Mr. KALMBACH. None.

Mr. ST. CLAIR. And when you did meet with them, you were told that they reaffirmed it?

Mr. KALMBACH. When I met with them, as I have testified, Mr. St. Clair, it is my very best recollection that Mr. Chotiner advised me that they were expecting or in words to the effect that inasmuch as we expect an announcement of the increase in price supports momentarily, and I don't know if that would be—that would be my best memory as to what he said at that time, and he said Harold wants to advise you of something, and then he—then I talked to Mr. Nelson and Mr. Nelson then reaffirmed this \$2 million pledge.

Mr. ST. CLAIR. And what did you say, if anything?

Mr. KALMBACH. I said nothing. I just—

Mr. ST. CLAIR. But maybe you said thank you or something?

Mr. KALMBACH. I think I said thank you. I think that I just simply acknowledged with thanks the reaffirmation and then again, as I have testified, Mr. St. Clair, I think there was an ongoing discussion again in the mechanics area of affecting it, and I also have a recollection, and

I am not certain it was at this time, but I have a recollection of being advised at some point that the schedule of payments was to be at the rate of \$900,000 per month for months through the election in 1972.

Now, my best recollection is that I was advised of that. Now, I am not certain if it was at that meeting, but I know that we discussed mechanics following Murray Chotiner's statement to me about the expected, the price supports, the announcement to be made momentarily and that in view of that, Harold Nelson wants to talk to you and Nelson then reaffirmed the pledge.

Mr. ST. CLAIR. Was anything said in the course of the meeting as to what would happen if a decision was not changed?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. And it's clear you had no information on the subject of what the price support decision was going to be?

Mr. KALMBACH. I had none.

Mr. ST. CLAIR. Thank you.

Now, in March of 1972 you had a meeting with Mr. or I guess it's Dr. Mehren and Mr. Jacobsen and Nelson in which you said you did not want to raise any more funds and you told them the commitment was abrogated.

Mr. KALMBACH. Yes, sir. That's essentially what I advised them of. I didn't want to receive any additional funds from the milk producers and that if they felt they had a pledge outstanding, that I was advising them that pledge was abrogated.

Mr. ST. CLAIR. Did you do that on your own responsibility or did you have authority from someone to abrogate that commitment?

Mr. KALMBACH. No, sir. I took that on my own responsibility as associate finance chairman.

Mr. ST. CLAIR. But in your capacity as associate finance chairman?

Mr. KALMBACH. Yes, sir. That is correct.

Mr. ST. CLAIR. That fell within your authority?

Mr. KALMBACH. I so viewed that fact, that I so viewed it that I did have that authority.

Mr. ST. CLAIR. And you exercised that authority, and did you report that fact to anyone?

Mr. KALMBACH. I exercised that authority, and my clear recollection is that I advised Mr. Ehrlichman of this fact, and he just indicated to me that he felt it was good judgment.

Mr. ST. CLAIR. And did he say that in so many words to you?

Mr. KALMBACH. That's my clear recollection.

Mr. ST. CLAIR. And by abrogating this commitment, you are abrogating this commitment, you are abrogating the sum that ran into several hundreds of thousands of dollars. You were aware of that, were you not?

Mr. KALMBACH. Well, sir, I really wasn't sure because this—this pledge amount kept changing and I think at that time I felt that there was a pledge of some \$250,000, but I don't—I don't know where—that's my best recollection. But, whatever it was, I wanted them to understand that it was abrogated.

Mr. ST. CLAIR. Well, do you want us to understand that in abrogating this commitment, you felt it was inconsequential in terms of dollars as in terms of what was being abrogated?

Mr. KALMBACH. Oh, no, sir. I felt that the—that it would be better for the campaign if we did not receive any milk funds and I felt it would be better if we desisted from all contact with milk producers. And I felt that—

Mr. ST. CLAIR. Mr. Ehrlichman agreed?

Mr. KALMBACH. Yes, sir. He did.

Mr. BUTLER. Counsel, can we place the date of that meeting?

Mr. ST. CLAIR. Is that the March 16, 1972?

Mr. KALMBACH. Yes, sir. That's my recollection after the date of that meeting in the Madison Hotel.

Mr. BUTLER. Thank you.

Mr. SEIBERLING. Point of clarification, Mr. Chairman. At what point did Mr. Ehrlichman agree? He was not at the meeting?

Mr. KALMBACH. Congressman, this was just a point of information that I informed Mr. Ehrlichman of subsequent to the meeting.

Mr. SEIBERLING. Thank you.

Mr. KALMBACH. And I think it was later in March of 1972.

Mr. ST. CLAIR. When you were discussing fundraising with representatives of AMPI prior to March of 1972, were you aware of any pending price support proceedings or decisions in any way connected with your fundraising activities?

Mr. KALMBACH. Excuse me, Mr. St. Clair. Would you repeat that question, please?

Mr. ST. CLAIR. It's probably a bad question, and it is getting a little late. Let me try again.

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Do you recall your deposition being taken in a case called Nader against Butz in the U.S. District Court for the District of Columbia?

Mr. KALMBACH. Yes, sir. I do.

Mr. ST. CLAIR. Mr. Jenner, do you have available to you that deposition? If you do, it's page 55.

Mr. JENNER. Would you wait a second, Mr. St. Clair?

[A short pause.]

Mr. JENNER. Mr. St. Clair, why don't you go ahead.

Mr. ST. CLAIR. Do you remember being asked, sir, this question by Mr. Dobrovir? Do you know Dobrovir?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Question: "So it is your testimony that at that time you were totally unaware of the pendency of any price support matter as related to your fundraising activity," and at that time, it is March 25. You remember that?

Mr. KALMBACH. Of 1971?

Mr. ST. CLAIR. Yes.

Mr. KALMBACH. Yes, sir. I do remember that.

Mr. ST. CLAIR. And your answer was, "I was unaware and I remember—I have no memory at all, Mr. Dobrovir, of being aware of pending price support increases or whatever."

Do you remember making that answer?

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Is that truthful?

Mr. KALMBACH. At the time, yes, sir.

Mr. ST. CLAIR. Well, at the time you gave the deposition, you mean?

Mr. KALMBACH. Yes, sir. And since that time, I, of course, have been furnished extensive documentation or documents and have refreshed my recollection to the point where now I do recall that I was aware and I do recall with sequence events that I have testified to.

Mr. ST. CLAIR. I see. So that this prior testimony you say now is inaccurate because your memory has been refreshed by documentation that you have been furnished with?

Mr. KALMBACH. Documents and the very extensive going back in my own mind to refresh myself totally on events over these years.

Mr. ST. CLAIR. Let me ask you this. In the course of your dealings with AMPI, did you ever trade with them on price supports in exchange for contributions?

Mr. KALMBACH. No, sir.

Mr. ST. CLAIR. That's all. Thank you.

Mr. KALMBACH. Yes, sir.

Mr. ST. CLAIR. Thank you, Mr. Chairman.

Mr. DONOHUE. Well, thank you, Mr. St. Clair.

Mr. JENNER. Mr. Chairman, Mr. Dennis made inquiry with respect to the funds delivered to Governor Nunn. The staff will submit to the committee tomorrow all of the political matters, memoranda. But, for the purposes of the committee at the moment, in the event a member wishes to ask questions, I have before me the political matters, memorandum of September 18, 1971, from Mr. Strachan to Mr. Haldeman and on the 4th page, there is the following numbered paragraph "Harry Dent, several items have been submitted including State analysis that you have already read and State polls that are not usually reviewed by you. Two matters deserve your attention. A, the Kentucky Governor's raise can be won by Republican Tom Emberton, according to Dent. However, Governor Louis Nunn is seeking a \$200 to \$300 commitment from here for television during the closing week of the campaign. As you will recall, from your discussions with the Attorney General of this morning, this would not be a loan." And you were to check with the President if he disagreed with releasing the money, you and the Attorney General were to discuss it in a meeting with the President. And to the left in the margin of that paragraph is written, "I have confirmed \$100 to the AG."

Mr. DENNIS. Mr. Chairman?

Mr. JENNER. That I advise is the handwriting of Mr. Haldeman.

Mr. DENNIS. This is a memorandum by Mr. Haldeman?

Mr. JENNER. This is a memorandum, Congressman Dennis, of Mr. Strachan to Mr. Haldeman and it's dated September 18, 1971.

Mr. DENNIS. Thank you.

Mr. JENNER. On White House letterhead.

Mr. BUTLER. Counsel, is there a P or a pie sign in the margin of that?

Mr. JENNER. There is not.

Mr. BUTLER. Thank you.

Mr. DONOHUE. The Chair will now declare a recess until 7:30, at which time we will return and permit the members to ask questions of

the witness. And I wish to inform the committee members that Mr. St. Clair will make his response in the morning.

Mr. ST. CLAIR. Thank you very much, Mr. Chairman. I appreciate that.

[At 6:14 p.m., the hearing was recessed to reconvene at 7:30 p.m. this same day.]

EVENING SESSION

Mr. DONOHUE [presiding]. A quorum being present, the meeting is open and we will now hear from committee members who desire to question the witness.

Mr. BROOKS. Mr. Chairman.

Mr. DONOHUE. Mr. Brooks.

Mr. BROOKS. Mr. Chairman, I have several questions.

Mr. KALMBACH, primarily on the San Clemente area which you and I both have had a deep interest in, to your knowledge were funds derived from campaign contributions utilized in any manner in the purchase or improvement of, furnishing of the President's San Clemente property?

Mr. KALMBACH. No, sir.

Mr. BROOKS. Are you able to state with certainty that funds derived from campaign contributions were not used in the acquisition, improvement or the furnishing of the President's San Clemente estate?

Mr. KALMBACH. Congressman, I have no knowledge whatsoever of any contributions being used in the purchase of the property or in the payment of the furnishings or the remodeling.

Mr. BROOKS. Now, based on your knowledge of improvements made to the President's San Clemente estate, were any non-government improvements undertaken which were not paid for with the President's personal funds, and if so what were they?

Mr. KALMBACH. Again, Congressman, I know of no improvements that were made that were not paid for by the President, or by the Government, paid for by others. I have no knowledge of that, if that is your question.

Mr. BROOKS. The golf course, you might recall.

Mr. KALMBACH. Oh, yes, sir. That was a—that was paid for by the golfing friends of the President, yes, sir. That is correct.

Mr. BROOKS. Now, what is the extent of your knowledge of a special fund maintained by Mr. Rebozo "to take care of frequent Administration connected costs?" Do you recall that and—

Mr. KALMBACH. Yes, I do.

Mr. BROOKS. And I am not trying to—you do recall? I am referring specifically to a letter that Mr. Rebozo had written to you about that very subject matter.

Mr. KALMBACH. Yes, sir.

Mr. BROOKS. And if you could elaborate on that I would appreciate it.

Mr. KALMBACH. Yes, sir.

In the early I think it was February or March of 1969, I recall that Mr. Caulfield sent me a statement for expenses I think of \$320, or it

was approximately that amount, and it is my best recollection that I spoke to Mr. Ehrlichman. It was again, it was my recollection I spoke to Mr. Ehrlichman, who referred me to Mr. Rebozo. And Mr. Rebozo caused to be sent to me two checks. And I have a memory that I think one or both of them were printed as Floridians for Nixon Campaign Committee, or to that effect, and I assume from that, if I may make an assumption, Congressman, that those were funds that were left over from the Florida campaign, and funds that could be used properly for political purposes, and that I used those funds, put them in a special trustee account for clients and I have submitted the documentation and the file to the proper committees and investigating authorities. And I assume from that that when Mr. Ehrlichman referred me to Mr. Rebozo, Mr. Rebozo sent me these funds, enough to pay for the expense statement of Mr. Caulfield and also to pay for a printing of checks and leaving some \$24, or \$28 or \$44 left in the account. There was only one check written on the account as I remember it and there is still a balance in the account of \$44 or whatever it is. But, it was for activities or expenses, as I understand it, of Mr. Caulfield that could be properly paid for with these funds.

Mr. BROOKS. Now, Mr. Kalmbach, did you maintain a similar fund for the President's benefit?

Mr. KALMBACH. No, I did not Congressman. I had a bank account for the President's personal funds, but it was altogether separate and distinct and apart from any campaign funds.

Mr. BROOKS. Now, on how many occasions did you authorize or make payments of funds derived from Mr. Kalmbach's contributions to members of the President's family, staff and/or friends, and would you describe these transactions?

Mr. KALMBACH. I don't recall——

Mr. BROOKS. You might start with his family. That's closest.

Mr. KALMBACH. Yes, sir. I have no recollection of ever disbursing campaign funds from my trust funds to any members of the President's family or the President himself, of course or to any of his brothers in any way, shape, or form. I have no memory of that.

Mr. DONOHUE. The time of the gentleman from Texas has expired.

Mr. BROOKS. Mr. Chairman, Mr. Waldie has graciously offered me about 3 minutes of his time, and may I expend that now by unanimous consent?

Mr. DONOHUE. You may.

Mr. BROOKS. I would suggest to you that if you look at the transactions described in this sheet, if Mr. Jenner, if that scholar there would be so kind? He told me I could get extra time.

I learned something that I hadn't learned in 26 years in public office.

Mr. KALMBACH. Yes, sir. I have this.

Mr. BROOKS. Now, it seems to me to indicate that perhaps they did submit an envelope, it went to Donald Nixon for \$6,500 in the second paragraph on that.

Mr. KALMBACH. Yes, sir.

Mr. BROOKS. Now, does that refresh your memory? Do you recall any of that transaction?

Mr. KALMBACH. Yes, sir, Congressman. But, this is not at variance with what I have testified to, and if I may I would like to explain this.

Mr. BROOKS. Please.

Mr. KALMBACH. This is one of the sheets that was recovered from the accounting that I submitted to Mr. Stans, and he recovered and gave to Mr. O'Connor and Mr. DeMarco on April 19 of 1973.

Now, this, on July 7, 1970, reflects the fact that HWK and FMR, who's France Raine withdrew \$333,952.20 from the Riggs Bank and took, and these funds were taken to California. Now, it so happens, Congressman, that when these funds were placed in the Riggs Bank, in the safe deposit box, they were in sealed envelopes and there were many, many envelopes and there was not an account of the box itself. The count was off of the envelopes.

Now, when these funds were transferred to California, each of the envelopes were open and counted.

Now, as a result of that, and this is my own writing, to California by FMR, and that's France Raine for deposit in the Crocker Citizens Bank, when such was deposited on July 21, 1970, by HWK, myself, and France Raine and a complete count was made, it was found that the total was actually \$253,452.20, which is \$5,000 short from what had been marked on the outside of the envelopes. And then I indicated further, which was probably due to an inaccurate pencil notation on a sealed envelope in the box from which envelope F. Donald Nixon, FDN, had been paid expenses in late 1968, and in the campaign of 1968 of \$6,500.

Now, explaining that, Congressman, and I don't recall what was noted on the outside of the envelope, but whatever it was, there was \$5,000 left in what was marked on the envelope and I just made the assumption and it is reflected here that Mr. Nixon had been paid, that is Don Nixon had been paid an additional \$5,000 for expenses in 1968. And the notation had not been changed on the outside of the envelope. But, the expenditure in my mind, and I believe I am correct, was in 1968. It was not subsequent to the formation of the trust.

Mr. DONOHUE. The time of the gentleman from Texas has again expired.

Mr. SARBANES. Mr. Chairman, I ask unanimous consent to yield my time to the gentleman from Texas.

Mr. DONOHUE. If there is no objection.

Mr. BROOKS. I just have a couple of more questions.

Mr. DENNIS. Mr. Chairman, I have certainly no objection. I wonder if there is any way, if we are going to testify about this sheet, to have a copy of it?

Mr. JENNER. Mr. Chairman?

Mr. BROOKS. Testify about what?

Mr. DENNIS. This sheet of paper? It would be very helpful if we all had one.

Mr. BROOKS. Well, we can have a copy made of this. We are not going to use it any more, but I think we ought to and we will make a copy for the record and make this available if somebody will do this. We will get it to you, Mr. Dennis.

Mr. DENNIS. OK. I just thought if you were to ask more questions about that—

Mr. JENNER. May I mark the document as Kalmbach exhibit 21 for identification?

Mr. DONOHUE. It will be so marked.

Mr. JENNER. Thank you.

Mr. DONOHUE. And made a part of the record.

[The document referred to was marked for identification "Kalmbach Exhibit No. 21" and follows:]

[Kalmbach Exhibit No. 21]

Riggs National Bank Safe Deposit Box No. E 429
Main Office, 1503 Pennsylvania Avenue
Washington, D. C.
Attn: Mrs. Amanda Sweeney, Safe Deposit Department
Telephone: (202) ST. 3-5600, Extension 311

Maurice Stans who received it from Herbert Kalmbach shortly after January 24, 1972).

Chronology of receipts and disbursements:

- 1/24/69 HWK (Herbert W. Kalmbach) and WDR (unknown) opened box with an initial deposit of \$733,952.20
- 5/28/70 TWE (Thomas W. Evans) and FMR (France M. Raine, Jr.) withdrew \$300,000 (\$200,000 brought out to California by FMR (France M. Raine, Jr.) for initial deposit to the Crocker-Citizens box in Los Angeles; the other \$100,000 was used to (a) reimburse the Security Pacific box in NB (Newport Beach) for \$45,000 of the \$100,000 earlier disbursed in California and \$55,000 was disbursed to KDKC (Kalmbach, De Marco, Knapp, Chillingsworth) as reimbursement to the firm for a loan of that amount obtained by the firm which was needed to enable the earlier \$100,000 disbursement).
Balance: \$433,952.20
- 7/17/70 HWK (Herbert W. Kalmbach) and FMR (France M. Raine, Jr.) withdrew \$333,952.20 (\$16,500 was paid over to JAG*(Unknown) that date by HWK (Herbert W. Kalmbach); \$258,452.20 was taken to California by FMR (France M. Raine, Jr.) for deposit in the Crocker-Citizens box --- when such was deposited on 7/21/70 by HWK (Herbert W. Kalmbach) and FMR (France M. Raine, Jr.) and a complete count made it was found that the total was actually \$253,452.20, i.e. \$5,000 short which was probably due to an inaccurate pencil notation on a sealed envelope in the box from which envelope FDN (F. Donald Nixon) had been paid expenses in late 1968 of \$6,500; and \$59,000 went to the Security Pacific box in NB (Newport Beach)).
Balance: \$100,000

*(covered \$9,000 for Massachusetts poll (MC) (Unknown). MC (Unknown) special of \$1,000, \$1,500 to California for recount, \$3,500 to JAG (Unknown) for expenses, and \$1,500 for Magruder Youth Committee)

Two box keys issued, one to each of the following:

Thomas W. Evans
France M. Raine, Jr.

Joint access authorized to any two of the following:

Herbert W. Kalmbach
Thomas W. Evans
France M. Raine, Jr.

Mr. BROOKS. Mr. Kalmbach, what bank accounts did you control at any time from 1968 to the present? Could you list those?

Mr. KALMBACH. I don't have the bank accounts. There were—you mean as to my trust funds, Congressman?

Mr. BROOKS. That's primarily correct.

Mr. KALMBACH. Yes, sir, I can be specific on that from my memory.

There were two safe deposit boxes in the east, one at the Chase Manhattan bank in New York with the branch at, I think, 410 Park Avenue. Another box was opened at the Riggs Bank in Washington, at the main office. There was a checking account at the National Bank of North America in New York that was established and then in California there was a box opened in the Security Pacific National Bank, Newport Beach, Newport Center Branch. And finally a box was opened at the Crocker Citizens Bank in downtown Los Angeles, in the main office of the Crocker Citizens Bank.

In addition to that, in California there was, I think, two checking accounts that were set up and it could have been three. One was a checking account established for the disbursements to Mr. Segretti. I think another checking account was set up for disbursements to Mr. Ulasewicz. Another checking account was set up under the name of the Public Institute for certain checks that were given to me during the 1970 senatorial campaign program. There may have been one or two other checking accounts in California, but that is my best, very best, recollection, Congressman.

Mr. BROOKS. Which of these accounts was used for campaign funds?

Mr. KALMBACH. To my knowledge, they were all used for campaign funds.

Mr. BROOKS. And now for which—

Mr. KALMBACH. They were, they kept, Congressman, they contained and held funds that I regarded as being under my trusteeship.

Mr. BROOKS. From which of these accounts did you make disbursements for them or at the direction of President Nixon?

Mr. KALMBACH. I made no disbursement from these accounts at the direction of the President.

Mr. BROOKS. I want to thank you very much. And, Mr. Chairman, in the interest of replying to Mr. Dennis fully, it may be that he would want a copy of this letter to Mr. Kalmbach from Mr. Rebozo and I would ask that it be an exhibit, it being the basis of one of my earlier questions.

Mr. JENNER. May it be marked as Kalmbach exhibit 22?

Mr. BROOKS. And would you ask them to have a copy made for the members so that they could take a look at it now? I'm sorry that I didn't have it available.

Mr. DONOHUE. It will be so marked and made a part of the record.

[The document referred to was marked for identification "Kalmbach Exhibit No. 22" and follows:]

[Kalmbach Exhibit No. 22]

*C. G. Rebozo*C. G. Rebozo
454

April 28, 1969

RECEIVED

APR 30 1969

KALMBACH, DELLARCO,
KNAPP & CHILLINGWORTH
LAW OFFICES

Mr. Herbert W. Kalmbach
Kalmbach, Dellarco, Knapp & Chillingworth
Suite 900 Newport Financial Plaza
550 Newport Center Drive
Newport Beach, California 92660

Dear Herb:

Enclosed find an additional check in the amount of \$200.00. This will at least take care of the \$320.00 statement which you now have.

Over the weekend, I spoke with John Ehrlichman and explained to him that it had been decided that the larger balance which I mentioned to you will be kept here in order to take care of frequent administration-connected costs which arise from time to time. Let me know, if you need more help.

Thank you very much.

Sincerely,


C. G. Rebozo

CGR:lh

Enclosure

Mr. BROOKS. Thank you, Mr. Chairman.

Mr. JENNER. Will the previous exhibit be made a part of the record also, Mr. Chairman, 21?

Mr. DONOHUE. That is right. Exhibit 21 shall also be made a part of the record.

Mr. JENNER. Thank you.

Mr. DONOHUE. Mr. McClory.

Mr. MCCLORY. Thank you, Mr. Chairman. And as you know, Mr. Chairman, the ranking member, Mr. Hutchinson, asked leave that he yield his time to me, so in my questioning, with your permission, I will utilize Mr. Hutchinson's time as well.

Mr. DONOHUE. Mr. Hutchinson stated that to the Chair prior to his leaving and you will be recognized for 10 minutes.

Mr. McCLORY. Thank you, Mr. Chairman.

I will work in Mr. Hutchinson's inquiries together with mine. For one thing, I wanted to ask you, Mr. Kalmbach, did you ever have any experience in fundraising before you got into this role of raising funds for President Nixon's elections?

Mr. KALMBACH. In 1968.

Mr. McCLORY. Yes, I know but I mean in other elections for other candidates or with regard to other officeholders prior to that time?

Mr. KALMBACH. To a very minimal degree.

Mr. McCLORY. I see, because it seems to me that you bring a sort of amateurishness to this whole field of fundraising and that rather prompted my inquiry.

Mr. RANGEL. I object to that witness characterization. Mr. McClory, the man raised \$6 million in 1968.

Mr. BROOKS. What do you mean he's an amateur? God Almighty, if he's an amateur—

Mr. McCLORY. When you are an amateur you do it for the love of it and I know that's what he was doing it for. But, you were familiar, you heard, at least, I am sure, in your other experiences that a great many times large contributors are likewise considered for important ambassadorships and frequently appointed to important posts as Ambassadors? You are aware of that; aren't you?

Mr. KALMBACH. Yes, sir.

Mr. McCLORY. In other administrations?

Mr. KALMBACH. I certainly am.

Mr. McCLORY. It's almost traditional.

Mr. KALMBACH. Yes, sir. I certainly am.

Mr. McCLORY. And frequently that's because it sometimes costs more to operate the Embassy than the Congress sees fit to allow, so that the mere fact that a large contributor is involved, an important ambassadorship is involved at the same time, is almost consonant with the practice; is it not?

Mr. KALMBACH. That is correct.

Mr. McCLORY. Of course, that's having reference to the so-called noncareer type of foreign diplomat.

Mr. KALMBACH. Yes, sir.

Mr. McCLORY. That concerns Mr. Hutchinson, and what I want to ask you about, is the business of handling so much in the form of cash. Why, why was so much cash received and disbursed? Why was it in that form? It seems to me that a great deal of your collecting of funds and disbursement of funds would appear to be legitimate and valid and legal, lawful. Why did you, why did you deal with cash?

Mr. KALMBACH. Congressman, when I took on this trusteeship at a very early date in my position as trustee, I was advised by Mr. Haldeman that insofar as it was possible I was not to change cash into a checking account, or checking account into cash but I was to retain the nature of the funds as I had received them and I received them as I have stated, approximately \$1 million, \$100,000 in cash and \$570,000 in checking accounts and I had adhered to that, to that rule as much as I possibly could.

Mr. McCLORY. You didn't raise any questions about that, you just followed the instructions that you got?

Mr. KALMBACH. Yes, sir. That's correct.

Mr. McCLORY. Now, with respect to your handling of cash and your discussions regarding ambassadorships, you never at any time, either before or since, have had any discussions with the President of the United States?

Mr. KALMBACH. No, sir.

Mr. McCLORY. You never talked to him and he never talked to you?

Mr. KALMBACH. I have no recollection of ever doing so.

Mr. McCLORY. Did anyone who talked to you say that he had talked to the President about that?

Mr. KALMBACH. Again, Congressman, I have no recollection of anyone ever saying that.

Mr. McCLORY. Now, you are familiar with the setup in the White House and as you have mentioned, the Chief of Staff, Mr. Haldeman, but, aren't you aware of the fact that Peter Flanigan actually is the personnel manager insofar as top personnel in executive departments and the possible posts are concerned? That's his role, isn't it?

Mr. KALMBACH. Yes, sir. I understand and have understood that Peter Flanigan's role was largely in that personnel area.

Mr. McCLORY. And you never talked to him about any of these ambassadorships?

He became a roadblock, but you had never talked to him in advance about them, did you?

Mr. KALMBACH. No, sir. I felt, as I have testified, with Mr. Haldeman—

Mr. McCLORY. I think you mentioned in your testimony another aspect of a meeting, I guess it was in your law office with respect to, with respect to President Nixon's tax return. I guess it was the first one after he was elected President, and you have a date in your diary, have you not, of March 26, 1969, when Mr. DeMarco discussed or had something to do with the President's tax return. March 26, 1969, do you recall that?

Mr. KALMBACH. I don't recall that entry, Congressman.

Mr. McCLORY. Well, I will try to, I will try to refresh your recollection a little later if I may on that.

Let me ask you this: You had a question earlier with respect to a conference on the 29th, or your attention was drawn to the White House transcript of April 17, 1973, in which the President and Haldeman made reference to you, and in a part of that the President is quoted as saying: "Look, you've got to call Kalmbach so I want to be sure. I want to try to find out what the hell he's going to say he told Kalmbach." The "he" is the person that I want to identify. Is that Dean?

Mr. KALMBACH. I don't know, Congressman.

Mr. McCLORY. Well, did anyone else talk to you, or is it LaRue, do you recall?

Mr. KALMBACH. I think that may have reference, Congressman to the conversation that I had with Mr. O'Brien where a Mr. O'Brien advised me that he had talked to Mr. LaRue and Mr. LaRue had asked him to relate to me the fact that he had had to name me as having

been involved in this, and that he was, that was my—that would be my understanding of, and my only time that I knew of things relative to Mr. LaRue and Mr. LaRue's testimony.

Mr. McCLORY. Let me ask you just one further question. You met with Mr. Ulasewicz out in California at sort of an advance stage of your handling money and Mr. Ulasewicz warned you, I think, that you were involved in a business you couldn't be involved in.

I think that was in—I think that was in July or so of 1972?

Mr. KALMBACH. That was. The particular conversation that I remember so clearly, Congressman, was at the time in early August of 1972 when I gave Mr. Ulasewicz the \$75,000.

Mr. McCLORY. Right.

Mr. KALMBACH. That I had received from Mr. Jones.

Mr. McCLORY. How long did it take you before you got out of the money business though?

Mr. KALMBACH. I did not raise any additional funds from that time.

Mr. McCLORY. And you delivered some funds after that?

Mr. KALMBACH. I had delivered \$75,000 to Mr. Ulasewicz and after that conversation, and I have so testified, that it is my recollection that I was approached again later in the month of August, and I declined to continue in this role of raising funds for the defendants.

Mr. McCLORY. Do you have any information concerning the date of the transfer of the Presidential papers? I know you are not familiar with any deed, but do you recall whether—do you have any information about the date of transfer? Would you search your memory to see whether or not on March 26, 1969, Mr. DeMarco was working on a Federal income tax for the President, and reference was made at that time to a transfer of Presidential papers?

Mr. KALMBACH. Congressman, I have no independent recollection of being aware of that on that date.

Mr. McCLORY. I will retain I guess the balance of my time, Mr. Chairman.

Mr. DONOHUE. Mr. Kastenmeier.

Mr. KASTENMEIER. Thank you, Mr. Chairman.

Mr. Kalmbach, I assume, and I really do not know, but I assume that in California as a lawyer, and as a person engaged in real estate, that you were financially successful before you actually devoted so much of your energy to President Nixon's re-election or his election, is that not true?

Mr. KALMBACH. Well, I had enjoyed a practice and work in executive management, yes, sir.

Mr. KASTENMEIER. Well, I ask that as an extension of what Mr. McClory was tending toward.

Mr. KALMBACH. Yes.

Mr. KASTENMEIER. And that in your action, your activities were not directed out of any personal financial gain for yourself during the administration or as a result of the President's election, isn't that true?

Mr. KALMBACH. No, sir.

Mr. KASTENMEIER. In fact, it was as a result of, to a great extent, as a result of some sort of unbridled trust in the President and in those he selected as his top aides that you find yourself in the present difficulty you are in, is that not the case?

Mr. KALMBACH. Congressman, I certainly had complete trust in these people.

Mr. KASTENMEIER. Mr. St. Clair referred of course to Mr. Dean but the fact, the fact of the matter is, with respect to your relationship with the President, the White House, with the top aides of the White House or with the Committee To Re-Elect the President, and the charges to which you pled guilty, Mr. Dean bears none of that responsibility, does he? He wasn't even a part of it?

Mr. KALMBACH. Congressman, I believe that if Mr. Dean at the time that he approached me in the park on the 29th of June of 1972 if, in fact, he knew that this is for an improper or an illegal purpose, and he engaged me to become active in this assignment through misrepresentation, I think that that's a violation certainly of everything that I understood, that he was a friend, and a man to be trusted.

Mr. KASTENMEIER. But you have had many assignments over the years that you have served the President and, indeed, those that you have, those that you are presently paying for, in a sense are not directly associated with Mr. Dean, isn't that a fact?

Mr. KALMBACH. The two offenses to which I pled guilty, that is correct, I was not——

Mr. KASTENMEIER. Furthermore——

Mr. KALMBACH. Mr. Dean was not involved in that.

Mr. KASTENMEIER. Further, I think you testified that on July 26 you had an opportunity to speak to Mr. Dean's superior, Mr. Ehrlichman, and verify whether or not you questioned Mr. Dean's manner or authority, that, indeed, he did have authority?

Mr. KALMBACH. Yes, sir.

Mr. KASTENMEIER. And you acted on that trust and that assurance?

Mr. KALMBACH. And that reassurance, yes, sir.

Mr. KASTENMEIER. In an unrelated question, the name of Mr. Raine has been introduced. Are you familiar with the fact that Mr. Raine received or is alleged to have received \$50,000 from unreported funds of the Committee To Re-Elect the President at some time prior to April 7, 1972?

Mr. KALMBACH. Do you mean as far as the San Clemente property?

Mr. KASTENMEIER. I have a fact sheet before me and I cannot authenticate it, but I would ask you to state whether or not this stirs any recollection. The court ordered disclosure on September 28, 1973, of pre-April 7 contributions and expenditures of the Committee To Re-Elect the President, which shows a payment of \$50,000 out of the secret fund to Francis M. Raine, Jr., a real estate investor in Rolling Hills, Calif., for a purpose not known. Is that a fact?

Mr. KALMBACH. Yes, sir.

Mr. KASTENMEIER. And to the best of your knowledge——

Mr. KALMBACH. I thought you were alluding to a disbursement to Mr. Raine for the house.

Mr. KASTENMEIER. That was a \$25,000 realtors commission in 1969, was it not?

Mr. KALMBACH. Yes, sir.

Mr. KASTENMEIER. Yes.

Do you know of any service or purpose for which the \$50,000 was paid over to Mr. Raine?

Mr. KALMBACH. No, sir. It was not paid to him personally. He had transmitted those funds to an individual at the Mayflower Hotel in Washington, D.C. That is my recollection, and he did not receive the funds personally.

Mr. KASTENMEIER. Then personally you know as a fact that he merely served as the conduit for those funds?

Mr. KALMBACH. Yes, sir.

Mr. KASTENMEIER. And they did not go to him personally?

Mr. DONOHUE. The time of the gentleman from Wisconsin has expired.

Mr. Sandman?

Mr. SANDMAN. I have no questions. But, I would like to say to Mr. Kalmbach that I am impressed with your testimony. I believe you are telling the truth and I want to congratulate you for the way you are facing up to this thing.

Mr. KALMBACH. Thank you very much, sir.

Mr. DONOHUE. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Mr. Kalmbach, you testified that you met with the President infrequently, perhaps once a year. Who hired you?

Mr. KALMBACH. Congressman, I was talked to and I think it was March 16 of 1969 by Mr. Haldeman, who advised me that the President wished to represent, wished me and my law firm to represent him in the acquisition of the San Clemente property.

Mr. EDWARDS. Then you were designated as his personal attorney, and from whom did you get your instructions?

Mr. KALMBACH. My instructions relative to all subsequent legal work came principally from Mr. Ehrlichman and then later from Mr. Dean. Also at various times, Congressman, I received instructions from Mr. Haldeman and Mr. Rebozo.

Mr. EDWARDS. Did you always know that their instructions were properly authorized by the President?

Mr. KALMBACH. Sir, every time that I received instructions, particularly, and I don't recall, I think there were, the instructions from Mr. Rebozo were infrequent and somewhat minimal but the instructions certainly from Mr. Ehrlichman and Mr. Dean that had to do with the President's personal legal matters I accepted unquestioningly as coming directly from the President. And I never had any other thought but that the instructions came to me through those gentlemen with his express approval.

If I could just go on for a second. That is, that in my very infrequent meetings with the President there was never any repudiation of any instructions I had ever received.

Mr. EDWARDS. Can you give us an example, Mr. Kalmbach, of instructions received from Mr. Rebozo?

Mr. KALMBACH. Well, I think they were instructions, and probably they weren't really instructions relative to legal work as such but they were instructions, for instance, when the President would be in San Clemente, I would see Mr. Rebozo usually once while the President was in San Clemente, and he would have a list of items of a minor nature of things to do to take care of the San Clemente property. And I would take care of those after the President left, and just see that they were done.

Mr. EDWARDS. Thank you. On March 26, 1971, did you take—were you on an airplane with the President?

Mr. KALMBACH. Yes, sir, I was.

Mr. EDWARDS. And he then congratulated you, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. EDWARDS. What for?

Mr. KALMBACH. Well, it is my very best memory that when I went forth to see him, at the request of Mr. Haldeman, the President simply said to me, Bob tells me that you are doing a good job in the fund raising and that was it, that was the sense of the congratulations.

Mr. EDWARDS. Thank you. Now, when you met with Mr. Dean on June 29, 1972, did he explain to you how the White House got into this jam?

Mr. KALMBACH. No, sir, he did not. He didn't mention any individual names. He simply recounted, as I have stated, that we've got to help these fellows, words to that effect, with attorneys fees and family support.

Mr. EDWARDS. Well, didn't it strike you as strange that the White House would be involved in helping these people?

Mr. KALMBACH. Well, sir, I knew that John Dean had been very closely associated for some time, a matter of a couple of years, with Mr. Mitchell. And again, I am relating an assumption now, if I may. But, I had the assumption, the clear assumption at the time that someone in high authority, and I did think it was Mr. Mitchell, had had the compassion to feel that these fellows should be provided for as far as their families and attorneys fees and that Mr. Dean had been asked by Mr. Mitchell to come to me. Now, that was an assumption, because Mr. Dean did not mention Mr. Mitchell or anyone else.

Mr. EDWARDS. But you mentioned the fact that Mr. Dean was perhaps, and I don't want to put words in your mouth, taking advantage of you because of the illegal purpose involved in the delivery of the money. What illegal purpose was involved?

Mr. KALMBACH. Well, sir, I think Mr. Dean has testified, or I understood that he says that the purpose was to buy the silence of these people.

Well, if he, if that was his understanding at the time he spoke to me, and he then, he was not—he spoke to me on the basis of helping these people as the decent thing and urging the fact that we have got to help these fellows that are now in this problem. I did not understand him to tell me that it was for the purpose of buying silence which was in fact what would be in fact an illegal purpose. John Dean certainly would know that I would refuse to do anything like that.

Mr. EDWARDS. Well, while this was going on Mr. Mitchell had given a press release and the President issued press releases saying the White House and the Committee to Re-elect the President had nothing to do with the break-in. Why would you think that it would be necessary for the White House and the Committee to Re-elect the President to be putting up all of this money?

Mr. KALMBACH. I don't know, sir. I just again, I have just recited to you my understanding at the time that I met with Mr. Dean and he stated words which I have recounted here. And my immediate reaction was to go forward and raise these funds. And, in fact, what I did is

that I raised \$75,000, \$75,100 within a matter of minutes after I saw Mr. Dean. If I had any thought at all that I was being asked to do anything illegal I would have certainly gone immediately to the people across the street.

Mr. DONOHUE. The time of the gentleman has expired.

Mr. EDWARDS. May I finish the question, Mr. Chairman?

Mr. DONOHUE. The time of the gentleman has expired.

Mr. EDWARDS. I was in the middle of a question, Mr. Chairman. Can I finish? Can I finish my question?

Mr. DONOHUE. You may.

Mr. EDWARDS. Thank you, Mr. Chairman. Well, both you and Mr. St. Clair referred to this job that you were designated to do by Mr. Dean as involved in something illegal. Who told you it was illegal? Where did you come to the conclusion it was illegal, except from Mr. Dean?

Mr. KALMBACH. I did not understand it to be illegal at all. I thought it was a—the decent and the compassionate thing to do for these people and I thought that there was a moral obligation outstanding and someone had the compassion to feel for these people.

Mr. EDWARDS. Thank you, Mr. Kalmbach.

Mr. DONOHUE. Mr. Railsback.

Mr. RAILSBACK. Mr. Chairman, it is with certain trepidation that I yield such time as he may consume to the gentleman from Maine, who will probably consume all of my time.

Mr. COHEN. I thank the gentleman for yielding and I assure him that I probably will. Mr. Kalmbach—excuse me, Mr. Chairman.

Mr. DONOHUE. Do you want to use that 5 minutes now or wait?

Mr. COHEN. I think I will use it now. Thank you.

In response to Mr. Edwards' questions you said that you raised \$75,000 immediately after being contacted by John Dean. Isn't it a fact that you called Mr. Stans who raised that money?

Mr. KALMBACH. That is what I meant.

Mr. COHEN. Right. So you just turned around and made a call to Maury Stans who was raising money for the Committee to Re-elect?

Mr. KALMBACH. That is what I meant, that I went to Mr. Stans in a matter of minutes.

Mr. COHEN. You didn't make any elaborate calls, you just simply turned around and made a call to Maury Stans?

Mr. KALMBACH. Yes, sir. I called Mr. Stans.

Mr. COHEN. I want to clarify something you said this morning, Mr. Kalmbach, at the March 24, 1971, meeting. I believe you said that you were with Mr. Chotiner and Mr. Nelson, and Mr. Chotiner said in your presence, and I am quoting from your testimony this morning: "In view of the impending increase of the price support level, Mr. Nelson has something to say to you." Is that correct?

Mr. KALMBACH. That is my best recollection as to the gist of what was said.

Mr. COHEN. Thank you. Now, Mr. Haldeman, did you ever mention to—I'm sorry, Mr. Kalmbach, did you ever mention to Mr. Haldeman how much money you had raised at any given time?

Mr. KALMBACH. Yes, sir. In the 1970 program I made a very complete accounting in that townhouse program.

Mr. COHEN. In 1970?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. Had you seen the President between 1970 and the plane ride on Air Force One on March 26, 1971?

Mr. KALMBACH. From what date?

Mr. COHEN. From the time you raised money in 1970 until such time as you were on Air Force One on March 26, 1971?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. And what I am getting at is, had you had any contact with Mr. Haldeman in that time keeping him apprised of how much money you had raised between the townhouse project and the milk funds?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. And where are those records?

Mr. KALMBACH. I don't have those records, Congressman, but I made it a practice to inform Mr. Haldeman, or one of his deputies, principally Mr. Strachan or Mr. Higby, of my progress in raising funds for the 1972 campaign.

Mr. COHEN. Did you draw any conclusion that there was a reference made to your success in the raising of funds from the dairy people on March 26 in view of the fact that you had concluded or reaffirmed the pledge of \$2 million on March 24?

Mr. KALMBACH. Congressman, I never understood—he did not particularize as to what he was talking about.

Mr. COHEN. No; what was your understanding?

Mr. KALMBACH. Well, my understanding was it was in other areas.

Mr. COHEN. Unrelated?

Mr. KALMBACH. Unrelated for this reason, that I, I never understood that I solicited the dairy people for the 1972 campaign, and never showed it in my list of pledges in my periodic reports and, in fact, the report that I submitted to Mr. Stans in early 1972.

Mr. COHEN. Mr. Kalmbach, it was said before that it is consistent, or consonant with large contributors to hold ambassadorships because of low pay and so forth. As I understood your testimony earlier with reference to Ambassador Symington, it seemed to me that his pledge of \$150,000 or whatever the figure was was specifically made contingent upon his appointment to a different ambassadorship. Is that correct?

Mr. KALMBACH. That is correct. It was——

Mr. COHEN. Is that consonant, was that consonant with existing practice?

Mr. KALMBACH. No, sir. I think the question, as I understood the question at the time, Congressman, was that the usual practice, and it has been usual, or so I understand, over the years, that major contributors have been appointed to noncareer posts, now, there were two commitments that were made that I was authorized or so understood I was authorized to make relative to Mr. Symington and Mr. deRoulet.

Mr. COHEN. Mr. Kalmbach, turning to exhibit No. 2 labeled "Kalmbach Exhibit No. 2,"¹ I direct your attention to what is called 2217, and it would be page 3 of that exhibit. And I go back to the question I raised earlier this morning, that when you were talking with Mr.

¹ See p. 581.

Ehrlichman on April 19, 1973, during which time you were being taped, unbeknownst to you, there was a statement made by Mr. Ehrlichman saying that you are going to be asked about this as to whom you have been talking to and I am not going to ask you to lie, but it would be better in essence if you would say that you were, you had this conversation with me out in California some 2 weeks before, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. Was that for the purpose of Mr. Ehrlichman conducting his overall investigation of this matter? Is that what he conveyed to you?

Mr. KALMBACH. I knew that we had talked in California; yes, sir.

Mr. COHEN. I understand. What did you conclude as a result of Mr. Ehrlichman telling you to say that he had talked that the conversation of April 19 had occurred, in fact, 2 weeks prior to that out in San Clemente?

Mr. KALMBACH. I am not certain, Congressman, what he meant, and I was confused in this conversation, and I think that is evident from the taped transcript.

Mr. COHEN. All right.

Mr. DONOHUE. The time of the gentleman from Illinois has expired.

Mr. HUNGATE.

Mr. HUNGATE. Thank you, Mr. Chairman.

Mr. Kalmbach, who makes ambassadorial appointments, subject to Senate confirmation?

Mr. KALMBACH. The President.

Mr. HUNGATE. And when Mr. Haldeman discussed Mr. Symington and Mr. deRoulet with you, you thought a commitment was to be made, is that correct? I believe that's your testimony?

Mr. KALMBACH. My thought was that a commitment had been made.

Mr. HUNGATE. Had been made and you merely conveyed it, is that right?

Mr. KALMBACH. That is correct.

Mr. HUNGATE. You mean it had been made to them in a prior thing, or it was to be conveyed to them through you?

Mr. KALMBACH. No; it was to be conveyed to them by me.

Mr. HUNGATE. And you didn't—you knew Mr. Haldeman didn't make those appointments himself? Personally?

Mr. KALMBACH. Congressman, I wasn't certain as to who relayed that commitment, whether it was Mr. Haldeman that was telling me or not, but I know that I—

Mr. HUNGATE. Pardon me?

Mr. KALMBACH. I know I got the commitment that way?

Mr. HUNGATE. Who conveyed the information to you?

Mr. KALMBACH. As to Mr. Symington, Mr. Higby did.

Mr. HUNGATE. Mr. Higby, beg your pardon. I thought it was Mr. Haldeman. And who conveyed it as to Mr. deRoulet?

Mr. KALMBACH. In that, my very best recollection, Congressman, is that is a commitment that I understand developed out of the conversations I had with Mr. Haldeman.

Mr. HUNGATE. And in each case talking to Mr. Haldeman and Mr. Higby again, it was the President who had the power to make the appointments, that's how you understood it?

Mr. KALMBACH. The President is, of course, the man who does, in fact, make appointments.

Mr. HUNGATE. And you believe that Mr. Haldeman and Mr. Higby respectively, had the power and authority to speak on behalf of the President?

Mr. KALMBACH. My assumption was that Mr. Haldeman was acting properly and with authority.

Mr. HUNGATE. And you had reason to base that on because you had dealt with him before when Mr. Haldeman and I think it was his brother in law, handled the San Clemente real estate property with the President, isn't that right?

Mr. KALMBACH. Yes, sir. Yes, sir.

Mr. HUNGATE. Now, when on June 29, 1972, that's been referred to in the park with John Dean, at that time did you consider yourself a personal attorney to the President?

Mr. KALMBACH. Yes, sir; and of course I consider myself a partner in the firm that was doing the legal work for the President.

Mr. HUNGATE. And Mr. Dean at that time was counsel to the President at the White House, is that correct?

Mr. KALMBACH. That is correct.

Mr. HUNGATE. And so the mission and the errands you undertook for Mr. Dean, you didn't undertake for him personally, really, did you?

Mr. KALMBACH. No, sir.

Mr. HUNGATE. But you thought, I suppose, that he was acting with authority on behalf of the President?

Mr. KALMBACH. No, sir. I thought, and I think I have testified to this, Congressman, that when Mr. Dean came to me in the park that he was speaking on behalf of probably, and this was an assumption that I made, on behalf of John Mitchell.

Mr. HUNGATE. I beg your pardon. I believe you did say that earlier and I'll apologize to you.

Mr. KALMBACH. Yes, sir.

Mr. HUNGATE. Was he then employed at the Justice Department so far as you know, Mr. Dean?

Mr. KALMBACH. No, sir. He was counsel to the President.

Mr. HUNGATE. And was he employed at CRP so far as you know, for Mr. Mitchell?

Mr. KALMBACH. No, sir. But I knew that he had a close coordination with the Committee To Re-elect.

Mr. HUNGATE. Thank you very much, Mr. Kalmbach, and I too would express the sentiments Mr. Sandman did. I think you have been most courteous and sincere.

Mr. KALMBACH. Thank you, sir.

Mr. DONOHUE. Mr. Smith.

Mr. SMITH. Mr. Chairman, thank you.

Mr. Kalmbach, I too want to express our appreciation for your being here and going on rather long hours.

When John Dean first talked to you about the necessity for making some payments to the Watergate defendants, did you ever go out to raise a defense fund, as you had suggested?

Mr. KALMBACH. No, sir; I did not.

Mr. SMITH. Was there ever any defense fund that you knew about?

Mr. KALMBACH. Not to my knowledge, Congressman.

Mr. SMITH. And I think you testified that—

Mr. KALMBACH. Excuse me, Congressman. You mean a public defense fund?

Mr. SMITH. Public defense fund.

Mr. KALMBACH. No, sir; not to my knowledge.

Mr. SMITH. But that was one of your suggestions to John Dean?

Mr. KALMBACH. That was one of the first things I said to him when he broached the subject in the park on the 29th.

Mr. SMITH. There was an \$8,000 payment to Mr. Liddy and who ordered that payment?

Mr. KALMBACH. It was either Mr. Dean or Mr. LaRue, Congressman.

Mr. SMITH. And I think you testified that on July 27, 1972, you gave Gordon Strachan \$1,000, was that right?

Mr. KALMBACH. On what date, Congressman?

Mr. SMITH. July 27, 1972?

Mr. KALMBACH. Yes, sir. That is my best recollection.

Mr. SMITH. And did you give that to him without instructions from Mr. Dean or Mr. LaRue?

Mr. KALMBACH. Yes, sir. It was at his request and I simply gave him the \$1,000. He was the aide and deputy to Mr. Haldeman.

Mr. SMITH. Did he say what he wanted to do with it?

Mr. KALMBACH. I am not certain on that, Congressman. I know that at one time he told me that he was, that they were giving some funds to someone as expenses, someone employed I think at Camp David, but that's my very best recollection, as supplemental expense money.

Mr. SMITH. And this was from funds that were in your care and custody?

Mr. KALMBACH. Yes, sir. And this was part of the funds I subtracted \$1,000 that Mr. LaRue gave to me on the 27th, which, as I have stated, was either 30,000 or 29,000 and I gave that \$1,000 to Mr. Strachan and I so informed Mr. Dean and Mr. LaRue.

Mr. SMITH. On July 26, 1972, I think you were talking to John Ehrlichman, and he said in effect that if there was no secrecy about these payments "they will have our heads in their laps"?

Mr. KALMBACH. That's exactly correct.

Mr. SMITH. And who did you understand by "they"?

Mr. KALMBACH. Well, I think that by "they" he meant the Democrats and he meant the press.

Mr. SMITH. Now, Mr. Jones gave an extra \$75,000 to you. I think it was around the first of August of 1972?

Mr. KALMBACH. He gave me \$75,000 in the first week of August 1972.

Mr. SMITH. And do you know who talked to Mr. Jones about making that contribution? Did you do it or did somebody else ask him?

Mr. KALMBACH. No, sir.

I think I have testified, Congressman, that earlier Mr. Jones had given approximately \$100,000 prior to April 7. At some point in this, in this timespan I saw Mr. Jones in Los Angeles and he said to me as follows—and I will just give you the gist of what he told me—he said Herb, I have got 50 for you when you have a special need.

Now, the fact of the matter is that when he gave me the funds there was an extra \$25,000 beyond what he said he would give me. I then

called him, as I have testified, and I wanted to return the extra \$25,000 but the end, the bottom line on that was that he told me to keep all of it, and count it toward his earlier \$250,000 goal figure.

Mr. DONOHUE. The time of the gentleman from New York has expired.

Mr. SMITH. Thank you, Mr. Chairman.

Mr. DONOHUE. Mr. Eilberg.

Mr. EILBERG. Mr. Kalmbach, you were the President's personal lawyer from 1969 to 1974?

Mr. KALMBACH. Yes, sir. My firm represented him in certain legal matters; yes, sir.

Mr. EILBERG. Now, you testified today, I think, on various occasions that you were asked to do things and on several occasions you refused to do them because you felt they were improper or illegal; is that correct?

Mr. KALMBACH. Yes, sir.

Mr. EILBERG. Now, did it ever occur to you as the President's lawyer and personal friend that you should perhaps have informed the President that you had been ordered or requested to do illegal things on behalf of the President?

Mr. KALMBACH. Well I don't—I didn't know they were illegal, Congressman. I think that they are—I think that you allude here to the request that I give Mr. O'Brien, or plant that story on Mr. O'Brien which I considered improper, certainly unethical. but, Congressman, I did not have ready access to the President, and it did not cross my mind to attempt to see him to talk to him about these things.

Mr. EILBERG. You don't think there is anything improper about that, that you shouldn't have told the President about these things that bothered you?

Mr. KALMBACH. Well, sir, again I was being talked to by people who had, in whom the President had the highest trust and confidence, and the fact that I was disturbed and bothered with it, I was, I thought maybe that my—I was, I would be more concerned about that I should have been, but it certainly was not something that I felt that I wanted to arrange for a personal meeting with the President about.

Mr. EILBERG. Mr. Kalmbach, a question on the milk situation. You testified that you were told by AMPI lawyer Milton Semer that AMPI had three goals—one, 90 percent party milk price supports. Two, a Presidential speech to their convention. Three, a picture-taking session with the President.

You also testified that you told Haldeman about the three goals. Did you tell Haldeman about the goals both before and after you received the contributions?

Mr. KALMBACH. That was my recollection, Congressman, but I want to be fair here. I want to make it clear that what Mr. Semer asked for and which I was authorized to assure him of was that he, it would be possible for me to arrange for him to see various people within the administration to whom he would be able to present his clients' case. These objectives were not—it was not in any sense a quid pro quo. These were objectives that he wanted to present in his meetings with these administrative or administration people.

Mr. EILBERG. Thank you Mr. Chairman. I will reserve the balance of my time.

Mr. DONOHUE. Mr. Wiggins?

Mr. WIGGINS. Mr. Kalmbach, I want to take you back to June 28 or thereabouts of 1972 and your first conversation with Mr. Dean about the money you were raising for these defendants. I understand that you felt that it was the moral and the decent thing to do under the circumstances, because your state of mind was that there was the unstated belief on your part that these defendants may have been acting on behalf of the Committee To Re-Elect and there was an obligation to take care of their families.

Is that in general correct?

Mr. KALMBACH. That is correct, Congressman.

Mr. WIGGINS. What troubles me is if the obligation was owed by the Committee To Re-Elect why did you go right back to the Committee To Re-Elect to raise the first \$75,000?

You went to Mr. Stans, as I understand it.

Mr. KALMBACH. Yes, sir.

Mr. WIGGINS. Why did you do that?

Mr. KALMBACH. I just felt it was a disbursement that I could go to Mr. Stans and ask him for the funds, which in fact I did.

Mr. WIGGINS. I understand you did, but it seems to me that if that obligation were the obligation of the Committee To Re-Elect, Mr. Mitchell could have talked to Mr. Stans directly without involving you.

Mr. KALMBACH. Yes, sir.

Mr. WIGGINS. Have you ever had an explanation for that?

Mr. KALMBACH. No, sir, I do not.

Mr. WIGGINS. Mr. Dean didn't suggest to you that you go to Mr. Stans, did he?

Mr. KALMBACH. No, sir, he did not.

Mr. WIGGINS. I won't belabor this examination very long. It is late. But I want to get several parts of your testimony in focus in my own mind.

You didn't tell the President about these payments to the defendants, is that correct?

Mr. KALMBACH. That is correct.

Mr. WIGGINS. And you believed at the time they were made that it was the lawful thing to do and the decent thing to do?

Mr. KALMBACH. Absolutely.

Mr. WIGGINS. You didn't talk to the President specifically about your fundraising activities?

Mr. KALMBACH. No, sir.

Mr. WIGGINS. More specifically, you didn't talk to him about the fundraising with respect to the milk producers?

Mr. KALMBACH. That is correct.

Mr. WIGGINS. And you didn't talk to him about your activities with respect to commitments to ambassadors, is that correct?

Mr. KALMBACH. That is correct.

Mr. WIGGINS. And you didn't talk to him about your fundraising activities on behalf of the townhouse operation?

Mr. KALMBACH. That is correct.

Mr. WIGGINS. And you didn't talk to him about your activities as the trustee of certain surplus campaign funds?

Mr. KALMBACH. That is correct.

Mr. WIGGINS. And on or about April 10, 1970, when you visited the President to present the tax returns, you believed at that time that the deductions were lawful?

Mr. KALMBACH. Correct.

Mr. WIGGINS. Well, I think that just about covers your testimony. I will yield to Mr. Railsback.

Mr. RAILSBACK. Mr. Kalmbach, in your conversation on March 25, with John Ehrlichman, I think on March 25, 1971—was it not?

Mr. KALMBACH. Yes, sir, I think so.

Mr. RAILSBACK. 1971?

Mr. KALMBACH. Yes, sir.

Mr. RAILSBACK. You indicated that you are not certain whether Mr. Ehrlichman suggested to you or whether you reported to him before or after the luncheon you had, but I am wondering if at any time, either the day before or on that day, did Mr. Ehrlichman ever suggest to you that he had talked to the President or that he was requesting your action on behalf of the President?

Mr. KALMBACH. No, sir, I have no recollection of that at all.

Mr. RAILSBACK. Was the President mentioned at all?

Mr. KALMBACH. No, sir.

Mr. WIGGINS. I will reserve the balance, Mr. Chairman.

Mr. DONOHUE. Mr. Waldie is recognized for 2 minutes.

Mr. WALDIE. Mr. Chairman, Mr. Eilberg said he would also yield the balance that he did not use to me. That is 4 minutes, I think.

Mr. DONOHUE. I understand that Mr. Eilberg did not use a minute and a half.

Mr. WALDIE. That will be fine.

Mr. DONOHUE. So that the gentleman from California is recognized for 3½ minutes.

Mr. WALDIE. Thank you, Mr. Chairman.

Mr. Kalmbach, I only want to cover one question. I understand your belief that the payments were proper and compassionate and legal, but I am still puzzled as to the silence aspect of that and your understanding of the necessity for silence, and I know that is what disturbed you most about the entire affair, the cloak and dagger aspect of it. If my recollection serves me right, Mr. Ehrlichman advised you that the silence was necessary because the press would place misinterpretations upon the payment. Is that correct?

Mr. KALMBACH. Well, Congressman, he advised me to continue and go forward. He used the figure of speech that "They will have our heads in their laps."

Mr. WALDIE. That would be the Democrats?

Mr. KALMBACH. Yes, sir, and the press.

Mr. WALDIE. If they knew the payments were being made?

Mr. KALMBACH. And that was the understanding that I had from that, was that if these payments got into the press, it would be misinterpreted and it—

Mr. WALDIE. I understand you said that. But I do not understand the nature of the misinterpretation you were fearful would be placed upon an activity that you believed to be compassionate and moral and proper.

Mr. KALMBACH. Well, the misinterpretation, Congressman, would be that this was for an improper purpose.

Mr. WALDIE. And what improper purpose was described to you as the misinterpretation?

Mr. KALMBACH. No, in my mind, the misinterpretation that would be arrived at or would be in the press would be that the payments were to buy the silence of these people.

Mr. WALDIE. Yes. I think that would be a reasonable construction. And it was because of the fear that that would be a construction placed on the activities that you acquiesced in participating in the covert operation?

Mr. KALMBACH. Well, when, the absolute secrecy was—I was admonished by Mr. Dean on the 29th in the park.

Mr. WALDIE. At the time Mr. Dean made the admonishment to you, did he explain the nature of the misinterpretation that might occur and did it coincide with your own belief?

Mr. KALMBACH. No, sir, he didn't even mention it—he just said that this has to be absolutely in confidence.

Mr. WALDIE. Did you ask him why such secrecy would be necessary?

Mr. KALMBACH. No, I don't recall that I did.

Mr. WALDIE. Did you make that assumption at that time as you have described to me, that it had to be secret, because someone, Mitchell, incurred an obligation that could be misinterpreted?

Mr. KALMBACH. No, I don't recall that, Congressman. I know that when I was approached by Mr. Dean and it was stated to me that it would be absolutely in secrecy, I assumed that, as I have stated, it was for, there was a moral obligation felt on the part of someone. I don't know that there was any time in this, at this particular time that anyone was stating that these people were operating on behalf of the Committee To Re-Elect, and to me it was——

Mr. WALDIE. But you thought they were?

Mr. KALMBACH. It was just telling me to raise funds to provide for the families.

Mr. WALDIE. But you thought they were operating on behalf of Mr. Mitchell is what you said?

Mr. KALMBACH. That was my assumption.

Mr. WALDIE. So it was moral and compassionate, but when did you come to the realization that it also might be misinterpreted as not being moral and compassionate but being illegal?

Mr. KALMBACH. Well, I think that that developed as I went through July and the sense of the secrecy and all that, and then when Mr. Ulasewicz spoke to me these words of caution——

Mr. WALDIE. Now, did you at any time when you left this activity because of your concern that it was illegal and not, in fact, a moral and compassionate act, did you convey that reason for leaving to anyone?

Mr. KALMBACH. No, sir; I did not, and, Congressman, my view, again, as I have stated just a few minutes ago, is that I didn't even know at that time when I desisted from the program that it was improper. I was sufficiently concerned in my own mind that there was a question in the secrecy and all that, and coupled with the words of cau-

tion from Mr. Ulasewicz, I was sufficiently convinced in my own mind that I didn't want to have anything to do with it.

But here were men—Mr. Ehrlichman, Assistant to the President for Domestic Affairs, certainly if not his right-hand man, his left-hand man, here is Mr. Dean, Counsel to the President—

Mr. WALDIE. Your assumption was they were acting in behalf of the President and with the President's knowledge?

Mr. DONOHUE. The time of the gentleman from California has expired.

Mr. WALDIE. I have a question pending, Mr. Chairman.

Mr. DONOHUE. Mr. Dennis?

Mr. WALDIE. Mr. Chairman, I have a question that was pending at the time of the ruling.

Mr. DONOHUE. You had exceeded by a half minute your 3½ minutes.

Mr. WALDIE. All right, Mr. Chairman.

Mr. DONOHUE. Mr. Dennis?

Mr. DENNIS. Mr. Chairman, thank you.

Mr. Kalmbach, I don't have the documents here, but as I understand it, you testified in this case of *Nader* against Butz that you did not realize in March 25, 1971, that anything was pending about price supports. Is that sufficient—

Mr. KALMBACH. That was my recollection at that time, yes, sir.

Mr. DENNIS. And now you know there were, because your memory has been refreshed. I am not entirely clear how your memory got refreshed.

Mr. KALMBACH. Well, sir, I think the *Nader v. Butz* deposition was the very first deposition that was taken of me and I had not spent any time refreshing or trying to develop a recollection of events over the prior years. There was a deposition, a second deposition, I think in December of 1973, and at that deposition, Congressman, there were many letters, documents, that were shown to me by Mr. Dobrovir that helped me greatly to refresh myself as to these activities. And I had had literally hundreds and hundreds of meetings and crossing the country, and I just didn't have the recollection at the earlier time.

Mr. DENNIS. Well, at any rate, you do remember now, as I understand you, that that subject was up for discussion and specifically that on March 24, 1971, at this meeting that you have referred to, that Mr. Chotiner said, according to my notes, that inasmuch as we expect an announcement of an increase in the price supports momentarily, Harold wants to advise you of something, or words to that effect, is that right?

Mr. KALMBACH. That is the gist of it, yes, sir.

Mr. DENNIS. And then Harold Nelson did advise you that they were going to reaffirm their pledge?

Mr. KALMBACH. Mr. Nelson did, in fact, reaffirm their pledge, yes, sir.

Mr. DENNIS. So that apparently, they knew at that time that the price supports were going to be increased?

Mr. KALMBACH. That was my impression, yes, sir.

Mr. DENNIS. And the reaffirmation came because of that fact and in consideration of the fact that they knew that raise was coming, is that correct?

Mr. KALMBACH. I understood from Mr. Chotiner's comment and from Mr. Nelson's comment, and it is my very best recollection as to what was stated, and I have so testified, that there was a linkage.

Mr. DENNIS. And in other words, they knew it and told you they knew it and then they came and made the reaffirmation?

Mr. KALMBACH. And then they reaffirmed, yes, sir.

Mr. DENNIS. All right.

Now, you say that you first learned, as I understand you, on April 19, 1973, and from Paul O'Brien that you had been named in the matter of making payments to the Watergate defendants, is that correct?

Mr. KALMBACH. By Mr. LaRue, and that is my best recollection, yes, sir.

Mr. DENNIS. Paul O'Brien told you at that time, on April 19, 1973, that LaRue had named you?

Mr. KALMBACH. He said again that, my best recollection, Congressman, is that he had talked to Mr. LaRue on the telephone. Mr. LaRue had informed him or asked him to relay to me the fact that Mr. LaRue had named me as being involved in the payments to these individuals, and I certainly understood that.

Mr. DENNIS. And that was the first you had heard of it?

Mr. KALMBACH. That was the first time, Congressman, that I had any knowledge or recollection of the fact that Mr. LaRue had in fact named me as being involved in this activity.

Mr. DENNIS. Right. You got that from Mr. O'Brien on that—at that time?

Mr. KALMBACH. Yes, sir. My best recollection is that that was what I had received from Mr. O'Brien on the morning of the 19th of April 1973.

Mr. DENNIS. I will reserve the balance of my time, Mr. Chairman.

Mr. DONOHUE. Mr. Flowers?

Mr. FLOWERS. Thank you, Mr. Chairman.

Mr. Kalmbach, before asking any questions, I would like to join with what I think the gentleman from New Jersey, Mr. Sandman, said in stating my appreciation of you for what I consider to be very sincere, very honest and forthright testimony, and a great help to this committee.

I must admit that some of the sums of money that you and others dealt in are quite shocking and baffling to me. And in terms of what I know political costs and expenditures are, at least in my State, and perhaps in my region, it is astounding that the sum of \$400,000 would have been, you might say, appropriated to help out one of the candidates in a Governor's race in my State. That is about the sum total of what one would expect to spend in a Governor's race in Alabama.

Do you have any knowledge, aside from this particular sum and the sum that went to the Nunn race in Kentucky, any other large sums of money that were appropriated to more or less State campaigns as opposed to Federal campaigns?

Mr. KALMBACH. From the funds under my trust, Congressman?

Mr. FLOWERS. Yes, sir.

Mr. KALMBACH. Yes, sir. I did disburse in 1969 \$20,000 to Mr. Cahill's campaign on the—

Mr. FLOWERS. New Jersey?

Mr. KALMBACH. Yes, sir.

Mr. FLOWERS. I see, since the gentleman from New Jersey, Mr. Sandman, was also a candidate in that race, I believe, too.

Both distinguished members of this committee.

Let me ask you this, and I appreciate your leveling with us on these things, Mr. Kalmbach. You have recounted the two instances involving Ambassador deRoulet and Ambassador Symington, in which you might say, it aborted what they wanted to have accomplished. I don't believe anyone has asked when I was not here—not while I was here, certainly—about some of those commitments that perhaps came through.

Could you give us any information along those lines? Commitments to other parties that were honored by the administration that you might have knowledge of and what amounts, if any, were paid in campaign donations?

Mr. KALMBACH. Congressman, I know only of these two commitments that I have testified to. I don't know of other commitments in the sense that I have related the commitment to Mr. Symington and to Mr. deRoulet.

Mr. FLOWERS. Yes, sir. Well, thank you very much.

When, Mr. Kalmbach, was the last time that you either saw or talked to the President of the United States?

Mr. KALMBACH. This was in, I think in April of this year.

Mr. FLOWERS. April 1974?

Mr. KALMBACH. Yes, sir.

Mr. FLOWERS. During the time that you served as his attorney and handled these items of personal legal business, I believe you said you met with him perhaps once a year, sometimes more, but that would make five or six times over the last 5 or 6 years, is that correct, sir?

Mr. KALMBACH. Yes, sir, that is correct, in the sense that meetings that were private or just one other present, it was not more often than five or six times.

Mr. FLOWERS. Does your firm still handle any personal legal business for the President?

Mr. KALMBACH. No, sir, and Congressman, following my plea before Judge Sirica on February 25, I thought it appropriate to resign from the firm, which I in fact did.

Mr. FLOWERS. I understand that, sir. So when you saw the President in April of this year, it was not in connection with any legal business then?

Mr. KALMBACH. No, it was not, and I did not see him; he called me.

Mr. FLOWERS. You talked to him over the telephone?

Mr. KALMBACH. Yes, sir.

Mr. FLOWERS. Prior to that conversation, when was the preceding time that you had talked to him, the last preceding time?

Mr. KALMBACH. I think that I saw him at the White House in a social setting in 1973; I think also during the Inaugural. But it was in a larger group. But he did call me in mid-November of 1972 following the election.

Mr. DONOHUE. The time of the gentleman from Alabama has expired.

Mr. Mayne?

Mr. MAYNE. Thank you, Mr. Chairman.

Mr. KALMBACH, I take it that as far as your contacts with the political milk funds were concerned, from your testimony, that the only persons with whom you had any direct contact, at least, were representatives of AMPI or their political arm, TAPE—is that correct?

Mr. KALMBACH. I am a little confused, Congressman, as to some of the people that I met and whether or not they might have been involved or representing certain of the other milk producers.

Mr. MAYNE. Well, I will ask you about the following people, all of whom the record shows were officers or employees of AMPI or TAPE, and see if you can recall any others who may have been associated with some of the or the two other principal political milk funds.

You testified that you originally were originally contacted by the attorney Semer; and you also had contacts with the attorneys Harrison, Jacobsen, and eventually, Mr. Chotiner; and with Mr. Nelson and with—I don't know whether you said anything about Mr. Parr or not.

Mr. KALMBACH. Yes, sir; I did, Mr. David Parr. I think I did. Mr. Parr, as I remember it, was present, I think at those two meetings in late 1970.

Mr. MAYNE. Well, the record—

Mr. KALMBACH. That would be my recollection.

Mr. MAYNE. Well, the record had otherwise established that all of these people were directly with AMPI. Then there was AMPI's general manager, Dr. George Mehren. Is that the same George Mehren who had been the Assistant Secretary of Agriculture under Orville Freeman in the Johnson administration?

Mr. KALMBACH. Yes, sir; it is.

Mr. MAYNE. Now, were there any other representatives of the milk producers that you recall who may have been with one of the other political milk funds?

Mr. KALMBACH. I have a memory, Congressman, of meeting a Mr. Morgan, and I think that it was from another of the milk producers, and I think it was in 1972, and I am not certain exactly when it was, but I have a memory of meeting him at the request and suggestion of Mr. Jacobsen, and inasmuch as I like Mr. Jacobsen, I was willing to meet with Mr. Morgan in Los Angeles. We had lunch together, but there was—I have no recollection of soliciting a pledge from Mr. Morgan at that meeting. It was a social meeting and I agreed to meet with him at the request of Mr. Jacobsen.

Mr. MAYNE. Well, perhaps it appears elsewhere in the record as to who Mr. Morgan was, but I don't recall at present. But we can check that.

Now, I am not sure about the chronology of some of the events that you have related. Did I correctly understand you to say that on about March 16, 1972, you told General Manager Dr. George Mehren of AMPI that you didn't want to receive any further funds from them?

Mr. KALMBACH. Yes, sir.

Mr. MAYNE And—

Mr. KALMBACH. At that meeting——

Mr. MAYNE. Just let me continue the question.

Mr. KALMBACH. Yes, sir.

Mr. MAYNE. And you also said on that occasion that if they had any unpaid pledge outstanding, you were abrogating it right then and there?

Mr. KALMBACH. That is correct.

Mr. MAYNE. Well, now, why was it that you took this what would seem to me to be a rather drastic action on March 16, 1972?

Mr. KALMBACH. It was my view, Congressman, that with the publicity that had been extant relative to the milk producers and milk funds, combined with the sense that I had that they were, they wanted to talk about their problems with me, I just felt that it was something that I would prefer not to deal with and I felt that to save embarrassment, not only to the campaign but to the milk producers themselves, I thought it better that we not receive any further funds and I thought it better that if they felt there was a pledge balance outstanding, that that pledge balance be abrogated.

Mr. MAYNE. And I believe you testified you thought that that unpaid balance was about \$250,000 at that time?

Mr. KALMBACH. Yes, sir. That is my best recollection and I am not certain as to why, but it is my best recollection as to what was the balance that was still outstanding, the pledge from AMPI.

Mr. MAYNE. You have said several times that you turned them off on that occasion. I gather that by that, you mean that you had thought you had ended the relationship, is that correct?

Mr. KALMBACH. That is correct.

Mr. DONOHUE. The time of the gentleman from Iowa has expired.

Mr. Mann?

Mr. MANN. Mr. Chairman.

Mr. Kalmbach, in your dealings with Haldeman and Ehrlichman over the period of 4 to 5 years, you have already testified that with the possible exception of the two ambassadorial commitments, you had never known of any repudiation by the President of any of their actions?

Mr. KALMBACH. I think, Congressman, that my statement was that in all of the directions that I had received relative to the President's personal legal work, that never in my very infrequent meetings with the President, where we discussed his personal affairs, never at any time did he repudiate any of the directions I had received from any of these people.

Mr. MANN. Well, let's broaden that a little bit. Were you aware during that 5 years of any repudiation by him of any action taken by either of them during that entire time, whether it directly involved you and your property arrangements or anything else?

Mr. KALMBACH. Sir, I am not certain that I understand your question.

Mr. MANN. Did it ever come to your attention that any action they had taken on behalf of the White House had been repudiated by the President?

Mr. KALMBACH. I have no recollection of any such repudiation of anything.

Mr. MANN. And you have heretofore testified that you regarded Haldeman as the right arm and Ehrlichman as the left arm, a man who had the total confidence of the President?

Mr. KALMBACH. Yes, sir.

Mr. MANN. And you went to him on July 26, to Mr. Ehrlichman, and you looked him in the eye and got his assurance that in effect, what you were doing was authorized—is that correct?

Mr. KALMBACH. Yes, sir.

Mr. MANN. And you went away still persuaded that it was the lawful and decent thing to do?

Mr. KALMBACH. I went away reassured that it was proper for me to go forward.

Mr. MANN. Yes.

Now, you have been asked similar questions today and on other days, but my respect for your sense of honor requires that I inquire further into your motivation, because when you were confronted with the fact that it wasn't the lawful and decent thing to do—and on April the 9th, you called Mr. Ehrlichman, as shown by exhibit No. 77, and you said to Ehrlichman, "I just couldn't believe that you and Bob and the President, just too good friends to ever put me in a position where I'd been putting my family on the line" and I ask you, Mr. Kalmbach, were you not personally satisfied that this operation concerning which you asked Mr. Ehrlichman was being conducted with the President's knowledge and approval?

Mr. KALMBACH. Congressman, when I spoke to John Ehrlichman, I spoke to him as a personal friend. I had no assumption there. I felt that when John Ehrlichman told me to go forward, it was sufficient for me to go forward.

Mr. MANN. I know that. Just like you felt free to go forward on every other instruction that he communicated to you from the President, although not identifying it necessarily as coming from the President.

Mr. KALMBACH. Yes, sir.

Mr. MANN. So on what basis did you differentiate this instruction from him from other instructions which you had occasion to verify came from the President?

Mr. KALMBACH. Well, Congressman, the major differentiation between directions that I received from John Ehrlichman and John Dean relative to the President's personal legal work, I was, of course, certain these directions had originated with the President himself. But now, in matters, political matters, I was not certain.

Mr. MANN. Wouldn't you concede that this was a matter that was even more important to the President, the matter of his reelection?

Mr. KALMBACH. Yes, sir, I, of course, know that his reelection was very important. But his activities at that time and—just—I didn't have any personal knowledge or any awareness as to his involvement or his knowledge.

Mr. MANN. Mr. Kalmbach, I ask you again—

Mr. KALMBACH. Yes, sir.

Mr. MANN [continuing]. What was your visceral feeling about where this authority came from?

Mr. KALMBACH. Well, I think that if I made any assumption at all, I made the assumption that John Ehrlichman was talking with the knowledge, but I had no knowledge at all that, and he did not mention the President at all.

Mr. MANN. I understand that.

Mr. DONOHUE. The time of the gentleman from South Carolina has expired.

Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Kalmbach, I would like to follow the same line of questioning as Mr. Mann. I agree with those who express their admiration for the manner in which you have comported yourself here today, and I have a feeling that you were ill used by some of your friends and you perhaps trusted them too much and got yourself into the difficulties that you now find yourself. But all day long, I have been trying to find an answer to the question why you did all that you did. You did extensive legal work for the President without compensation; you raised a significant amount of money for the President's political reelection; you engaged in surreptitious activities in the President's behalf; and along the same line of the questions that Mr. Mann has just been asking you, obviously, you did not do these things for Mr. Ehrlichman or for Mr. Haldeman or for Mr. Dean; you were doing them for the President of the United States. Is that correct?

Mr. KALMBACH. Yes, sir.

Mr. HOGAN. So your motivation in all of this service above and beyond the call of duty was in service to the President?

Mr. KALMBACH. Service to the President and to the administration.

Mr. HOGAN. And to the administration.

Well, now, I have asked other witnesses, Mr. Kalmbach, who indicated that they didn't think that they were in any way doing anything wrong, if it didn't occur to them that the code names and the mail drops for money and the undercover or covert, to use the words of one of your associates, activities didn't in any way raise your suspicions that what you were engaged in would be illegal. And as a sophisticated and mature and successful attorney, was the eyeball-to-eyeball assurance from Mr. Ehrlichman really enough to turn aside these suspicions that you had?

Mr. KALMBACH. Congressman, to the extent that they were for me to go forward from that office on the 26th of July 1972 to speak to Mr. Jones, they were. But obviously, all that was necessary was that when Mr. Ulasewicz spoke to me in my car in Orange County and spoke to me words to the effect that, Mr. Kalmbach, this is not, you should not be involved in this sort of activity—words to that effect—that, as I have stated before in this testimony, that was all that I needed to then and there suddenly just know in my own mind that I would—whether my suspicions and concerns and level of concern was justified or not, it was something that I would not be continue to be involved in. And I forthwith desisted from this activity.

I wanted—just one moment, if I may.

I had the feeling, again, and I have expressed this, but here I have had Mr. Ehrlichman and Mr. Dean, people in high position within the Government, who had advised me to go forward and all I could think

of in my own mind is, this is something that I don't want to be involved in, but maybe I am being silly not to continue, but I would not.

MR. HOGAN. Well, accepting that for the moment, Mr. Kalmbach, did you also feel that the sale of ambassadorships was not in any way wrong? Or is that an inaccurate characterization of what was going on?

MR. KALMBACH. Well, sir, I think that I have recounted the two instances. I never thought I had the authority to commit to any appointment.

MR. HOGAN. But you certainly felt that what was involved was the sale of ambassadorships?

MR. KALMBACH. You mean when I would support their candidacy?

MR. HOGAN. Yes, and when you were involved as the conduit in the negotiations?

MR. KALMBACH. Well, in those instances, I was passing commitments that I had received from the White House to these individuals. And, of course, that was—in the specific instance of the commitment that was given to Mr. Symington was the subject of the misdemeanor to which I pled guilty.

MR. HOGAN. Let me probe that a little further, Mr. Kalmbach. In his letter to you, Mr. Symington talks about basking in the reflection of that wonderful personality in the White House. You indicated that you had had numerous conversations with Mr. Symington subsequent to that time. Did he ever say to you that the President personally had in any way confirmed the commitment which had been made?

MR. KALMBACH. I have no recollection ever that he so stated.

MR. DONOHUE. The time of the gentleman from Maryland has expired.

Mr. Seiberling?

MR. SEIBERLING. Thank you, Mr. Chairman.

Mr. Kalmbach, in response to a question by Mr. St. Clair as to whether Mr. Flanigan told you that no one but the President could make a commitment to appoint a person as ambassador—that was his question—you responded that no one could make such a commitment, is that correct?

MR. KALMBACH. Well, my memory, Mr. Seiberling, is that the question was that Mr. Flanigan had said that it was just not possible for anyone to make a commitment as to an ambassadorial appointment. I don't think he mentioned the President's name, but in my sense, he was saying that I could not do that, nor could anybody else within the White House staff.

MR. SEIBERLING. Well, was it your concept that the President could lawfully make a commitment to an ambassador to appoint someone to be an ambassador on the basis that if he did, that person would make a major contribution to a political campaign?

MR. KALMBACH. Sir, I had the understanding and my clear recollection is, as I have testified, that I received these commitments from the office of Mr. Haldeman.

MR. SEIBERLING. Well, I understand that, but is it your understanding that anyone, President or anyone else, can lawfully make such a commitment in exchange for a promise to pay to a campaign fund?

MR. KALMBACH. No, sir.

Mr. SEIBERLING. Well, now, what was your understanding of the law at the time you were involved in these negotiations?

Mr. KALMBACH. Well, sir, I think that when I relayed the commitment to Mr. Symington, I just wasn't thinking of the illegal aspects of it. I felt that when I received the commitment from Mr. Higby that was relayed to me, that it was a matter of honor that this commitment be honored.

Mr. SEIBERLING. Well, I can see how you felt that way as a personal matter, because you had witnessed the commitment being made, in effect; it wasn't your commitment, but you were a party to it in a sense. And also, you had been the one who accepted the pledge.

Mr. KALMBACH. Yes, sir.

Mr. SEIBERLING. Now, I find myself a little baffled. Let's go to the period of 1970 and prior to April 7, 1972, when you found yourself, first of all, trustee of this large sum of money, political funds; then being asked by Mr. Haldeman to take cash whenever you could in soliciting contributions. And then passing out large chunks of cash, sometimes through rather 007 techniques, as you put it. At any time, did you ever feel that there might be something fishy or dubious about this whole process or the purposes for which such cash was being passed out secretly?

Mr. KALMBACH. I did not think so.

Mr. SEIBERLING. Well, at any time, did you feel impelled to get legal advice as to the propriety of this type of function? Passing out cash in large chunks secretly?

Mr. KALMBACH. I don't know. I have a recollection, Congressman, of reviewing this with Mr. Dean at one time. I also have a recollection of talking about this to Mr. Ebner, who is the general—who is the counsel to the Finance Committee as to these procedures. And it is my recollection that I was advised by both of those attorneys that there was no—they felt there was no illegality involved in the disbursement of the funds that I had been disbursing over the period of several years.

Mr. SEIBERLING. Well, knowing what you know now, you wouldn't have accepted their advice as being impartial, I assume?

Mr. KALMBACH. Sir, at the time—

Mr. SEIBERLING. I know at the time, you had no reason not to.

Mr. KALMBACH. Well, they had both been involved in—of course, Mr. Dean and Mr. Ebner—I had great respect for Mr. Ebner's opinions.

Mr. SEIBERLING. Let me just say that—

Mr. DONOHUE. The time of the gentleman from Ohio has expired.

Mr. SEIBERLING. Mr. Chairman, may I finish my sentence?

Mr. DONOHUE. You may.

Mr. SEIBERLING. I just want to say that I feel great sympathy toward you. I feel that this is a very tragic thing that has happened to you, that you were misused by people you had reason to believe were your friends and I am terribly, personally sorry that it happened.

Mr. KALMBACH. Thank you, sir.

Mr. DONOHUE. Mr. Butler?

Mr. BUTLER. Mr. Chairman, I yield 35 seconds to the gentleman from Maryland, Mr. Hogan.

Mr. HOGAN. I thank the gentleman for yielding.

Mr. Kalmbach, refreshing your memory back to the conversation during your luncheon with Ambassador Symington in California and your placing the call to the White House, I recall to Mr. Haldeman and Mr. Higby returned it from Chicago?

Mr. KALMBACH. Yes, sir, I reached Mr. Higby and then Mr. Higby then called me back.

Mr. HOGAN. Did Mr. Higby give you any indication, since the President was with him—or was in Chicago—did he give you any indication at all that he had consulted with the President about that matter?

Mr. KALMBACH. He did not say. He did not give any indication.

Mr. HOGAN. Thank you.

Mr. BUTLER. Mr. Chairman, I yield 1 minute and 48 seconds to the gentleman from Iowa.

Mr. MAYNE. Mr. Kalmbach, you have related how on March 16, 1972, you turned off AMPI and Dr. Mehren. Did I understand correctly, however, that on April 4, thereafter, Dr. Mehren was back in touch with you?

Mr. KALMBACH. Yes, sir.

Mr. MAYNE. And on that occasion, he told you that he had checks which he was ready to turn over to the Presidential campaign?

Mr. KALMBACH. I don't know, Congressman, if he had checks. It is my very best recollection that he indicated to me that he was prepared—I don't know whether he said he or we are prepared to make a substantial additional contribution to the campaign.

Mr. MAYNE. But then in almost the same breath, he also said that he wanted you to intercede with the White House in AMPI's behalf with reference to the antitrust suit which was pending against them?

Mr. KALMBACH. That is my recollection; yes, sir.

Mr. MAYNE. And you say that you emphatically rejected that?

Mr. KALMBACH. Yes, sir; that is correct. That is my best—

Mr. MAYNE. Just tell us from your own words what he said and what you said in that connection?

Mr. KALMBACH. Well, as I say, Congressman, I was asked to call him by Mr. Jacobsen and I called on or about April 4 of 1972 from, I think it was Washington, to his home in San Antonio.

Mr. MAYNE. Just tell us what you said and he said.

Mr. KALMBACH. And when he came on the line, he said to me that he was, they were prepared—we are prepared, I think was his—that is my best recollection—we are prepared to make a substantial additional contribution to the campaign, but, Herb, we would like to have you help us by going to the White House and interceding and being of help to us in these antitrust matters that we are facing.

My reply to that was, Mr. Mehren, consistent with my statement to you on or about March 16th, I will not intercede and will not become involved in any activity on your behalf. I think I said words to the effect, I hope you will understand. And he was rather abrupt in terminating our conversation.

Mr. MAYNE. You realized that would be wrong to accede to his request?

Mr. KALMBACH. I felt it would be, yes, sir.

Mr. MAYNE. And is that the last contact you had with him or any representative of AMPI?

Mr. KALMBACH. As far as I can remember, I have not talked to Mr. Mehren subsequent to that time and I can't remember talking to any representative of AMPI. I just don't have any memory of talking to anyone else again.

Mr. MAYNE. Thank you.

I thank the gentleman from Virginia for yielding and yield back the balance of the time yielded.

Mr. BUTLER. Mr. Kalmbach, referring to exhibit 12, the itinerary agenda beginning with Wednesday, March 24, 1971, now is it my understanding that this was prepared for you by somebody in your office before you left California?

Mr. KALMBACH. Yes, sir, by my secretary, I think on the 23d.

Mr. BUTLER. And was it your plan to come to Washington even prior to your telephone conversation with Mr. Ehrlichman on the 23d?

Mr. KALMBACH. Yes, sir.

Mr. BUTLER. Was it your plan to also have this meeting at 11 p.m., or was that added later?

Mr. KALMBACH. No, sir, it is my very best recollection that it was added at the time that I talked to Mr. Ehrlichman and then——

Mr. BUTLER. On the 23d?

Mr. KALMBACH. On the 23d, and subsequent to that conversation, this itinerary agenda was prepared by my secretary.

Mr. BUTLER. I see. So you really had not anticipated this meeting on the evening of the 24th prior to your telephone conversation with Mr. Ehrlichman on the 23d?

Mr. KALMBACH. That is my recollection, yes, sir.

Mr. BUTLER. I yield my remaining time to Mr. Cohen, if I may, Mr. Chairman.

Mr. DONOHUE. Sorry, but the gentleman's time has expired.

Mr. Danielson.

Mr. DANIELSON. Thank you, Mr. Chairman.

Mr. Kalmbach, during the period of time that we are speaking of, you knew, I believe, that Mr. Haldeman was Nixon's staff member, did you not?

Mr. KALMBACH. Yes, sir.

Mr. DANIELSON. And that Mr. Strachan was one of Mr. Haldeman's lieutenants, and Mr. Higby likewise?

Mr. KALMBACH. Yes, sir.

Mr. DANIELSON. And Mr. Ehrlichman, probably second only to Mr. Haldeman, was also a close aide of the President?

Mr. KALMBACH. Correct.

Mr. DANIELSON. During this period of time, we recited the fact—you testified very frankly of handling something like \$220,000 worth of payments to or for the benefit of the Watergate defendants. In dealing with them, you talked on some occasions with Mr. Ehrlichman, on others, with Mr. Strachan; and of course, Mr. Dean, Stans, Mitchell, LaRue, and others.

You discussed the dairy matters or milk matters, in which you felt that you were to report to Mr. Haldeman to take direction from Mr. Haldeman. You also dealt with Mr. Ehrlichman and Mr. Stans in connection with the dairy matters.

You discussed the townhouse project, in which you stated that you felt that you were to take direction from Mr. Haldeman. You also dealt with Mr. Colson and Mr. Harry Dent, and I guess some others.

On the townhouse situation, you mentioned going to some kind of a social matter on the *Sequoia* with the President. He gave a sort of pep-talk about campaigns. But it was in relation to entertaining people who were contributing to the townhouse operation.

You have mentioned the ambassadorial matters. We have gone into them in depth. In those, you have contacted Mr. Haldeman and, on one occasion, at least, Mr. Haldeman's aide, Mr. Higby.

And, of course, you have mentioned the trust fund of well over \$1 million that you handled. You were brought into that; Mr. Haldeman let you know they were leftover funds from a previous campaign. His brother-in-law, Mr. Raine, was a cosigner, and Mr. Evans, who was Mr. Nixon's former partner at Mudge, Rose, et cetera, as a cosigner. Am I right so far?

Mr. KALMBACH. As to the cosigners, Congressman, that is correct.

Mr. DANIELSON. Keyholders for the safe deposit box.

Mr. KALMBACH. That Mr. Raine and Mr. Evans were cosignatories on most of these accounts.

Mr. DANIELSON. And they also had a key to—

Mr. KALMBACH. Including the safe deposit boxes.

Mr. DANIELSON. Right.

Now, sir, during this same period of time, you expended a tremendous amount of energy, undertook a great responsibility, and, I am glad to say, discharged it as well. You were counted out. Were you not doing these things in order to be of assistance to your old friend, President Richard Nixon, rather than these individuals whom I have named?

Mr. KALMBACH. I felt that I was being helpful, yes, sir, to the President and to the administration.

Mr. DANIELSON. If there were no President Richard Nixon involved, would you have undertaken the responsibility of handling these probably more than \$2 million, in making cash deliveries in the lobby of the Sherry Netherlands Hotel at 11 p.m., et cetera?

Mr. KALMBACH. Sir, my motivation, of course, was prompted by my belief in the President and my wish to further the administration.

Mr. DANIELSON. I don't question that. But you are a lawyer. This committee has the constitutional responsibility of trying to put these facts into their proper context.

Mr. KALMBACH. Yes, sir.

Mr. DANIELSON. And I think it is your duty to help us do that.

Mr. KALMBACH. Yes, sir.

Mr. DANIELSON. I believe that your motivation was to try to help the President; am I not right?

Mr. KALMBACH. You are correct.

Mr. DANIELSON. Thank you.

Mr. DONOHUE. Mr. Cohen.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. Kalmbach, I believe Mr. St. Clair asked you earlier whether or not John Dean ever told you differently, that the money was for anything but humanitarian purposes. You said that is correct, it was always for the purpose of lawyers and sustenance for the families.

Mr. KALMBACH. I have no recollection ever at any time that he told me that it was other than for the family support and for the attorneys.

Mr. COHEN. And I assume that is also correct of Mr. Ehrlichman? He never told you otherwise?

Mr. KALMBACH. No, sir.

Mr. COHEN. As a matter of fact, as of April 6 and April 19, 1973, Mr. Ehrlichman never told you that he had any information in his possession that those payments were for anything but legal services and family sustenance?

Mr. KALMBACH. Again, it was consistent with what I had heard earlier.

Mr. COHEN. He did not tell you that he had heard a conversation between Mr. Colson and Mr. Hunt, a tape recorded conversation that there had been a demand made by Mr. Hunt on March 13 or March 16 for \$100,000? As a matter of fact, he left you with the impression that he didn't have any more information than you had about those payments, is that correct?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. And I know that you are a very sincere man. That comes through awfully clearly to all of us, and that when you would invoke the name of your wife and family, that would be a very serious invocation on your part. Is that correct?

Mr. KALMBACH. That is absolutely correct.

Mr. COHEN. And I assume the same would be true of Mr. Ehrlichman, since he testified to that in the Senate select committee. I am referring specifically to page 2568 in book 6. I will read to you:

And if Herb Kalmbach ever said to me, do you vouch for the propriety or the legality of what I am doing, I would have been very, very slow to make any assurance to Herb without a lot of research to satisfy myself. And that is why I am pretty sure that that kind of request was not made of me and I did not make a response.

Also on page 2574, where he sort of made light of "This very vivid and dramatic moment when we looked deep into each other's eyes"—do you recall that testimony?

Mr. KALMBACH. I do.

Mr. COHEN. And did you have the impression following that testimony by Mr. Ehrlichman before the Senate that you had been perhaps misled by Mr. Ehrlichman?

Mr. KALMBACH. Yes, sir.

Mr. COHEN. Mr. Kalmbach, did you ever have an opportunity to talk to Mr. Sloan prior to the time that he appeared before the Senate select committee about his testimony?

Mr. KALMBACH. About the——

Mr. COHEN. What he was going to testify to before the Senate select committee?

Mr. KALMBACH. I don't have a recollection of that, Congressman.

Mr. COHEN. You don't recall discussing what his liability or what his testimony should be or trying to calm him down?

Mr. KALMBACH. Oh, I am sorry. I know that I talked to Mr. Sloan in the early part of 1973. He was the man that I had recruited to become chief of staff of the finance committee and had solicited him to leave the White House to take on this job. I felt and do feel that he is a close friend and I believe absolutely in his integrity.

Mr. COHEN. Did you try and counsel him about his testimony coming up before the Senate?

Mr. KALMBACH. I did not. I told him to tell the exact truth.

Mr. COHEN. One final question. You indicated later that in 1969 when the President reviewed his tax return in your presence and that of your law partner, Mr. DeMarco, that he reviewed it package-by-package in the presence of both of you.

Mr. KALMBACH. Yes, sir. In that conversation, in that conversation, Congressman, I was seated over here, and this was on April 10, 1970, and the President was seated there and Mr. DeMarco was standing by his elbow and turning the sheets and going through the return.

Mr. COHEN. About how long did this take?

Mr. KALMBACH. I don't know, we were in the office probably 30 to 40 minutes. And I think the actual going through of the return probably didn't take more, than, oh, 10 minutes or so.

Mr. COHEN. Was it cursory or detailed or, cursory or detailed?

Mr. KALMBACH. I don't say it was cursory, I think there was comments and frankly, I had not been involved in the preparation of the return. I was there really very candidly, because it was a great matter of honor to our law firm, it was the first time we had prepared the President's return, and I had not seen the return, I have never seen one of his returns, and Mr. DeMarco was going through it and I didn't really pay a lot of attention, I was just sitting there observing.

Mr. COHEN. Thank you very much, Mr. Kalmbach.

Mr. KALMBACH. Yes, sir.

Mr. DRINAN. Mr. Chairman—

Mr. DONOHUE. Mr. Drinan.

Mr. DRINAN. Yes, Mr. Kalmbach, the President phoned you several days after the election as you testified in the Senate, around November 15, 1972. What did the President in general say to you then?

What did the President in general say to you then?

Mr. KALMBACH. It was a very brief conversation, Congressman, and it was simply a call to express his appreciation for all of my help in the reelection campaign.

Mr. DRINAN. Did he mention any person, did he mention Mr. Haldeman?

Mr. KALMBACH. No, sir. I have no recollection that he did.

Mr. DRINAN. Mr. Ehrlichman or Mr. Dean?

Mr. KALMBACH. No, sir.

Mr. DRINAN. Do you think that Haldeman and Ehrlichman were conscious of his call to you? Could they have prompted his call to you?

Mr. KALMBACH. I don't know, sir. I think, frankly, that this was just a call that was made to me, as was other calls to other people who had been helpful in the campaign, and it was something to be done following the reelection.

Mr. DRINAN. Did you ever mention this call to Haldeman or Ehrlichman?

Mr. KALMBACH. I don't recall whether I did or not. It was—I just regarded it as a thank you call.

Mr. DRINAN. Did the President give any indication that he knew that you had withdrawn in September from certain activities?

Mr. KALMBACH. No, sir. It was just simply a thank you for my help in the reelection campaign.

Mr. DRINAN. When the President called you in April 1974, this year, after your plea, did the President say anything suggesting that he knew that you had been misled?

Mr. KALMBACH. Well, sir, this was a conversation in the early morning, at 1:45 Washington time. And the President called me. I was at—I think he thought that I was in California. My wife had told him that I was in Washington, the White House operator. I was awakened by the call, and my best recollection of that call is that there were two things.

No. 1, he stated to me, he was very kind, he stated to me that, he said Herb, we are going to—it looks like we are going to have to use someone else to prepare our 1973 return, but I want you to know, that we will be, that I will be back to Kalmbach, DeMarco. I remember that statement.

And then second he said to me that Herb, I know that you and Frank only did what you were told to, directed to do relative to the tax work. And that was, that was the extent of what he said, Congressman. And again, it was very early in the morning.

Mr. DRINAN. Did he make any reference to your legal difficulties and their origin?

Mr. KALMBACH. No, sir, he did not. And the fact that he used the law firm's name would indicate to me that he was not then aware even that I had resigned from the law firm.

Mr. DRINAN. No, but he knew that you had plead guilty?

Mr. KALMBACH. I assumed that he did, but he did not mention it.

Mr. DRINAN. On another four or five times today you have stated that you assumed that you had as a hypothesis that John Mitchell may have initiated the breakin at the DNC. You just suggest that as a possibility. Did any one at the White House suggest that hypothesis?

Mr. KALMBACH. No, sir. That is my own assumption.

Mr. DRINAN. Did anyone at the White House discourage that hypothesis?

Mr. KALMBACH. Sir?

Mr. DRINAN. Did anybody at the White House discourage that hypothesis?

Mr. KALMBACH. No; I have just—that is my, that was my assumption at the time.

Mr. DRINAN. You never, in your testimony a year ago, July 16 and July 17 in the Senate, you didn't mention that hypothesis. Have you mentioned it before in grand jury or other testimony before today?

Mr. KALMBACH. Yes, sir.

Mr. DRINAN. Do you have any other hypotheses that might possibly explain the things that Mr. Dean asked you to do?

Mr. KALMBACH. No, sir. I have done my very best, Congressman, to tell you exactly what my state of mind was at that time.

Mr. DRINAN. I reserve the balance of my time, Mr. Chairman. Thank you.

Mr. DONOHUE. Mr. Lott.

Mr. LOTT. Mr. Kalmbach, the hour is late so I will be brief.

First of all, I do appreciate your coming here and presenting this testimony, and the manner in which you have presented it. My only

questions relate to the area once again of the preparation of the President's tax returns. You, in fact, did not, I think you stated this a while ago, but you in fact, had very little if any contact with this preparation, is that correct?

Mr. KALMBACH. That is correct.

Mr. LOTT. And there was a good deal of discussion today or questioning of this date of, was it March 16, 1969, when you were with Mr. DeMarco, and Mr. Morgan, and I think you walked around the perimeter of the San Clemente property.

Mr. KALMBACH. No, sir, Congressman. That date was April 21, 1969.

Mr. LOTT. April 21. And you stated that there was no mention of deed of gift at that time. And then subsequently, when you were being questioned by Mr. St. Clair, you said that you were not with these two gentlemen all day, and it is very possible that what happened on a deed of gift happened outside of your presence, and it is a fact that you would not necessarily have been involved in any way with this deed of gift, is that correct?

Mr. KALMBACH. That is correct. That is correct, Congressman.

Mr. LOTT. And one final question. When you were there in the room with the President and Mr. DeMarco, did you state that Mr. DeMarco made some comment about, Mr. President, you have something to the effect of a tax shelter, did he say for the next 5 years?

Mr. KALMBACH. I think that my best recollection of that, Congressman, is that he pointed to this charitable deduction, which gave effective shelter to the 1969 return, and the carry-forward on that deduction would carry forward for several years.

Mr. LOTT. Did the President make any comments, do you recall?

Mr. KALMBACH. Congressman, I am not certain that he did other than to acknowledge and evidence his appreciation and satisfaction.

Mr. LOTT. Thank you very much, sir; and I yield back the balance of my time.

Mr. KALMBACH. Thank you.

Mr. DONOHUE. Mr. Rangel.

Mr. RANGEL. Thank you, Mr. Chairman.

Mr. Kalmbach, I would like to join with this panel of lawyers in indicating the compassion that we feel. It has been tragic over the last few years as we have seen members of our profession fall.

Let me ask you, has the President ever discussed any of the testimony that you have given before any grand jury or any congressional hearing?

Mr. KALMBACH. Sir?

Mr. RANGEL. Has the President of the United States ever discussed with you testimony that you would be giving before any grand jury or congressional hearing?

Mr. KALMBACH. I have never at any time, Congressman.

Mr. RANGEL. And has anyone from the White House discussed the testimony that you are giving before this committee today?

Mr. KALMBACH. No, sir. Not to my recollection at all.

Mr. RANGEL. Now, it is my understanding, Mr. Kalmbach, in your dealings with the President of the United States, whether direction came from Mr. Dean, or Mr. Haldeman, or Mr. Ehrlichman, that those

directions and the performance of those directions by you, none of these actions has ever been repudiated? In other words, the communications have always been pretty clear between you and the President, whether those directions were of a legal nature or whether it was a political activity you were asked to engage in?

Mr. KALMBACH. Congressman, in my conversations with the President, which I have testified have been infrequent, and I have——

Mr. RANGEL. Let me put it another way, Mr. Kalmbach. More often than not when the President met with you he either congratulated you for some legal service you performed, or congratulated you for some political activity, whether it is fund raising or what, so that the direction which you did not get personally from the President, you either got from Mr. Dean, Ehrlichman or Haldeman, the President has never repudiated any of the directions that you received from his trusted assistants?

Mr. KALMBACH. No, sir. Not to my memory at all ever.

Mr. RANGEL. And that is true even as of today, as to your most recent conversation with the President? He has never repudiated any direction given to you by Mr. Dean, Mr. Haldeman or Mr. Ehrlichman?

Mr. KALMBACH. No, sir.

Mr. RANGEL. Now, in connection with the special assignment that was given to you by Mr. Dean, and you found reassurances from Mr. Ehrlichman, I understand that it was your feeling that this was the decent and the compassionate thing to do for defendants that found themselves in the situation and needed funds for family support and legal fees?

Mr. KALMBACH. Yes, sir.

Mr. RANGEL. And I understand further, as is your testimony, that you had no reason to believe that Mr. Dean and Mr. Ehrlichman were giving you these directions without the Presidential authority?

Mr. KALMBACH. I had no reason to believe that other than what I have testified, that I was being asked by these people to undertake this assignment.

Mr. RANGEL. Well, you know the President as a pretty decent fellow, and you would believe that he would have the same type of compassion that you did in terms of wanting to see that the defendants' legal fees were paid, and the families did receive some type of support?

Mr. KALMBACH. I would think that, yes, sir. But, I have no knowledge that he had any knowledge at all.

Mr. RANGEL. And it is your further testimony, I understand it, that you believe that one of the concerns that Mr. Dean and Mr. Ehrlichman had was that the breakin was directed by somebody either in the White House or the Committee To Re-Elect the President, or more specifically, Mr. Mitchell, and that whoever this person was he was trying to do the decent thing for a political activity that failed?

Mr. KALMBACH. Yes, sir. My assumption, Congressman, was that this—the impetus or motivation for this request that was made of me initially by Mr. Dean came from someone in senior authority, and it was my assumption that I made within my own mind that it was Mr. Mitchell who had made that determination.

Mr. RANGEL. But you don't believe the President of the United States would have had the same compassion and decent feeling for common burglars unless he thought it was associated with someone in the Committee to Re-Elect the President or the White House?

Mr. KALMBACH. Congressman, I did not, of course, speak to the President at all as to this assignment.

Mr. RANGEL. Well, if we get one step removed from the President to Haldeman, or Mr. Ehrlichman, or Mr. Dean, it is your understanding that they would not be serving the President of the United States' best interest if they were dealing with common burglars that were unknown to the White House or unknown to the Committee to Re-Elect the President?

Mr. KALMBACH. I felt again, Congressman, that when I was approached by Mr. Dean, that Mr. Dean, while he was counsel to the President, was a close friend of Mr. Mitchell, who at that time was campaign chairman, and that Mr. Dean was conveying this request to me.

Mr. RANGEL. No, my point is then—

Mr. KALMBACH. My assumption was—

Mr. RANGEL. My point is whether it is the President's counsel or whether it is the President's trusted aide, they would be acting without authority if they asked you to solicit funds for burglars that were unassociated either with the White House or the Committee to Re-elect the President, is that not so?

Mr. KALMBACH. I would think so, yes, sir.

Mr. DONOHUE. The time of the gentleman from New York has expired.

Mr. RANGEL. Thank you.

Mr. DONOHUE. Mr. Latta.

Mr. LATTA. Thank you, Mr. Chairman.

Mr. Kalmbach?

Mr. KALMBACH. Yes, sir.

Mr. LATTA. While you were handling all of these funds for the President and for the committee, did you use withdrawal slips or did you give receipts, or did they just turn this cash over to you?

Mr. KALMBACH. As to which funds, Congressman?

Mr. LATTA. Well, back when you got the funds that were left over from the 1968 campaign, for example, when they drew on these funds, did you have a withdrawal slip?

Mr. KALMBACH. No, sir.

Mr. LATTA. They didn't ask you for a number of dollars and you gave it?

Mr. KALMBACH. It was simply, Congressman, it was simply on the—when I was asked to take on this assignment, asked to become trustee by Mr. Stans, he said, Herb, we would like to have you be, he knew I was returning to California, was not going into—was not going into the administration, he said, he said Herb, we trust you, we would like to have you act as trustee. Now, that trust was evidenced by the fact that I dealt almost wholly by word of mouth directions.

Mr. LATTA. Well, I just would like to comment, Mr. Kalmbach, that apparently they thought you were an extremely trustworthy individ-

ual, and every bit of the testimony I have heard here today, and everything I have read proves that fact.

Just a couple of points. I know the hour is late. At any time while you were making these payments to John Dean, did he ever indicate to you that the President knew anything about them?

Mr. KALMBACH. No, sir. He did not.

Mr. LATTA. At any time when you were dealing with Mr. Haldeman, in connection with these payments, did he ever indicate that the President knew anything about them?

Mr. KALMBACH. Congressman, I never dealt with Mr. Haldeman in this particular assignment at any time.

Mr. LATTA. And he didn't know that you were making the payments to John Dean?

Mr. KALMBACH. Not to my knowledge. No, sir.

Mr. LATTA. Being attorney for the President, how frequently would you confer with the President?

Mr. KALMBACH. Congressman, I think that with the understanding that we are talking about meetings when there was just the President and myself present—

Mr. LATTA. That's what I have reference to.

Mr. KALMBACH. I think not more, not more than five or six times throughout this entire 5-year period.

Mr. LATTA. Five or six times throughout a 5-year period?

Mr. KALMBACH. Yes, sir.

Mr. LATTA. At any time that these payments were being made to John Dean did he ever say that the payments were being made or allude to the fact that the payments were being made for somebody's silence or for perjured testimony or for hush money?

Mr. KALMBACH. No, sir. Never at any time.

Mr. LATTA. At any time these payments were being made did you ever here anybody in the Committee To Re-Elect the President indicate that they were being made for that purpose?

Mr. KALMBACH. No, sir. I have no recollection of ever hearing that at any time.

Mr. MAYNE. Mr. Chairman, a point of clarification, Mr. Latta. Do you mean payments to John Dean or at John Dean's direction?

Mr. LATTA. Well, I think that's understood that it was paid to John Dean at his direction.

Mr. KALMBACH. Yes, sir. I understood, Congressman, that you are stating the payments that were directed by John Dean or by Mr. LaRue.

Mr. LATTA. Right.

Mr. KALMBACH. But thank you for that clarification.

Mr. LATTA. One final question. I think it was Mr. Cohen to make some reference to the payment, the last payment that Mr. Hunt was requesting \$120,000 or \$130,000. You were aware of the fact that some \$70,000 or I think it was \$70,000 of this amount of money was for attorneys' fees and \$60,000 was for family sustenance for a 3-year period?

Mr. KALMBACH. The only knowledge I have of that, Congressman, is what I have read in the press.

Mr. LATTA. You didn't have any knowledge of it at that time?

Mr. KALMBACH. No, sir. Not at all.

Mr. LATTA. I yield back the balance of my time.

Mr. DONOHUE. Ms. Jordon.

Ms. JORDAN. Mr. Kalmbach, you have testified earlier today about funds for a townhouse campaign, allegedly that's what it was called. Were there any funds left over from those funds raised for that purpose?

Mr. KALMBACH. Yes, ma'am.

Ms. JORDAN. How much, Mr. Kalmbach?

Mr. KALMBACH. I am not certain as to how many of the funds, how many funds were left over. I have a recollection of receiving some \$20,000 to \$30,000 from Mr. Gleason following that campaign, and turning that money over to Mr. Haldeman in the White House. And I would, my best recollection on that is that occurred in I think in November, late November of 1970.

Now, in addition to that, in order to respond fully to your question, I understand at the time in September, I think it was, of 1970, and in October of 1970 that it appeared that there might be a substantial surplus that would be held over for the 1972 campaign, and also I think it was, I understand, and I have a memorandum in one of my files, a copy of which this committee has, which indicated that some of that was in cash and other, and some of it would be in accounts, but prior—I have no recollection prior to September of 1970 that there would be any surplus. I understand that the way the program operated is that the funds would be, I suppose solicit pledges, Mr. Gleason would then contact the man that gave me the pledge, Mr. Gleason would spell out to this contributor the name of individual committees, each committee to receive not more than \$3,000 to avoid gift tax problems, and then those checks would be sent to either Mr. Gleason, or they would have been sent I think to Mr. Dent, and they in turn would give the checks to the individual candidate. But, generally that was the approach, and when I found in September that it appeared there might be a surplus, carried over to 1972, it was the first time that I recall that.

Mr. JORDAN. Did Mr. Haldeman request that you turn these funds over to him?

Mr. KALMBACH. Yes, ma'am. He did. I recall, to my very best recollection on that, that when I talked to Mr. Haldeman and said that Jack Gleason had given me his \$20,000 to \$30,000 as a balance left over in cash from this so-called townhouse program, which I call the senatorial campaign program, I asked Bob at that time, I said do you want me to put this back in my trust funds, and he said no, I would like you to just give it to me, and I will hold it here.

And I recall I was in his office in the White House, his desk was here, and he had his safe over in the far corner, and he took it over, we went over together and we put it in the safe, and that as I recall, best recall, was \$20,000 to \$30,000 in amount.

Ms. JORDAN. Thank you, Mr. Kalmbach. No further questions, Mr. Chairman.

Mr. DONOHUE. The Chair will recognize the gentleman from Illinois for 45 seconds.

Mr. McCLORY. Mr. Chairman, I yield—

Mr. DONOHUE. Being time that he had not used.

Mr. McCLORY. I yield my time to the gentleman from New York.

Mr. SMITH. I thank the gentleman.

Mr. Kalmbach, in the spring of 1970 when the President was signing his 1969 tax return, and you were there, there are indications that there may have been fraud in connection with the charitable deduction claimed by the President in connection with his Vice Presidential papers. If there was fraud, do you have any knowledge, or do you have any thought that the President willfully and consciously participated in that fraud?

Mr. KALMBACH. I have no knowledge at all.

Mr. SMITH. I thank you.

Mr. DONOHUE. Mr. Thornton.

Mr. THORNTON. Thank you, Mr. Chairman.

Mr. Kalmbach, I want to thank you for your efforts, which have been very apparent tonight to respond fully and completely to the questions that have been asked. And believing as I do that such an attitude should be acknowledged by a real gift of something in return, I want to give you 5 minutes shorter examination, and I yield back the balance of my time.

Mr. KALMBACH. Thank you, sir. Thank you.

Mr. DONOHUE. Ms. Holtzman.

Ms. HOLTZMAN. Thank you, Mr. Chairman.

Mr. Kalmbach, I wish to acknowledge and thank you for your patience and your long suffering with this committee as well as with a lot of other events that have taken place.

Let me ask you that in view of your response to Congressman Jordan, can you tell us if in any of the accounts you held, or in any of the contributions that you raised, or any cash, were any of these funds, aside from this \$20,000 and the \$1,000 to Gordon Strachan, were any of these other funds turned over in cash to Mr. Haldeman?

Mr. KALMBACH. Well, in trying to be just as fully responsive to your question as I can, it is my very best recollection that other than the \$1,000 I gave to Mr. Strachan, I gave \$500 to Mr. Dean at his request after April 7. He made a request to me, he said that he had to, he had to buy certain mementos or souvenir items, and I forget what it was, for the White House that would cost \$500, and he asked me to raise \$500 for him. This was post-April 7. I gave him \$500 of my own funds for the purpose.

Ms. HOLTZMAN. Aside from that \$1,000 to Mr. Strachan and the \$20,000 you mentioned to Congresswoman Jordan, you can't recall any other cash fund going to Mr. Haldeman from any contributions you raised or any campaign funds you were associated with?

Mr. KALMBACH. No. And I think to be precise on this, I think that in talking to Congresswoman Jordan that I said it was \$20,000 to \$30,000 would be my recollection.

Ms. HOLTZMAN. OK.

Mr. KALMBACH. But I have no recollection of any other funds.

Ms. HOLTZMAN. What about with respect to Mr. Rebozo, did you raise, I mean any campaign contributions that you raised, or any campaign funds that were left over, do you know whether any of these funds were turned over, or are you aware as to whether any of these were turned over in any form to Mr. Rebozo?

Mr. KALMBACH. Never have I to my very best recollection ever turned over, or that I have heard was turned over to him, other than my understanding that I had had earlier, and as reflected in the letter that the Congressman recited, and in early 1969, which I understand there were some funds that he held or had access to, which I understand to be surplus funds from the 1968 campaign. And I do not—I think I was advised as to what the amount was too of those funds, but I don't have a recollection now.

Ms. HOLTZMAN. You have answered my next question.

With respect to exhibit No. 16, there is an item here regarding Ned Garrity, and there is a 25 figure next to his name, and then there is a 50 figure and a 52 figure in parentheses. Does that refresh your recollection in any respect with regard to how much money Mr. Garrity pledged or gave to the townhouse operation?

Mr. KALMBACH. My recollection on that is that I met with Mr. Garrity in New York and—

Ms. HOLTZMAN. Mr. Kalmbach, since my time is short, and I don't mean to interrupt, but can you give me just the amount?

Mr. KALMBACH. The \$50,000 pledge that I received from Mr. Garrity.

Ms. HOLTZMAN. And are you aware that onboard the *Sequoia* on July 16, 1970, at the time the President was having dinner for various contributors that the President talked alone with Mr. Geneen for approximately 10 minutes?

Mr. KALMBACH. Well, I knew that he talked to Mr. Geneen. I don't know as to what the length of that conversation was.

Ms. HOLTZMAN. Did you observe them talking privately?

Mr. KALMBACH. I think I saw them talking, but it was aboard the boat.

Ms. HOLTZMAN. Now, on April 30, 1973, I gather you have previously testified that Mr. Rebozo told you that the President told him to talk to you about \$100,000 that he had received from—I mean had received from Hughes people, and specifically about the disbursement of some of that money to various others. Did you have any—am I correctly summarizing your testimony?

Mr. KALMBACH. Excuse me.

[Short pause.]

Mr. KALMBACH. I am advised by counsel that this is a matter of privilege, and I would respectfully request that the chairman direct me or rule on this question.

Ms. HOLTZMAN. Well, Mr. Chairman, I have simply asked the witness with respect to testimony that he has given in the past, and I don't know how that could be privileged. I was asking him whether the testimony was correct.

Mr. KALMBACH. It was given under the circumstances where I was directed by Senator Ervin.

Ms. HOLTZMAN. Would the chairman rule, please, on that?

Mr. KALMBACH. And may I add that the chairman, Senator Ervin, at that time advised me that it would be absolutely confidential and privileged, the testimony that I gave at that time under his direction.

Mr. DRINAN. Would the gentlelady yield.

Ms. HOLTZMAN. No. I would really like a ruling from the Chair with respect to that, because I have read this testimony or summaries

of it in the books that have been issued by the Senate select committee, so I would like some ruling on the question with respect to the question.

Mr. DONOHUE. I am inclined to rule that you should answer.

Mr. KALMBACH. All right, sir.

Ms. HOLTZMAN. Was in essence my summary of your testimony correct?

Mr. KALMBACH. Would you repeat it, please? I want to be very careful on this.

Ms. HOLTZMAN. Well, my question was did you testify previously that on April 30, 1973, and correct me if I am incorrect at all, I am trying to summarize it so I can ask you another question, Mr. Rebozo told you that the President had asked him to talk to you about \$100,000 that he had received from Hughes people, and specifically regarding some disbursements that he had made from that \$100,000, is that correct?

Mr. KALMBACH. If I can rephrase that?

Ms. HOLTZMAN. Please.

Mr. KALMBACH. Mr. Rebozo at the time of that conversation first asked, said can we go on an attorney-client basis, and I said yes. He then stated that the President had suggested to me that I come to you with a problem that I have, which referred to the \$100,000 that he had received from Hughes, and then he went on to state then that he had given part of those funds to Rose Mary Woods, part to Donald Nixon, part to Ed Nixon, and part to others, and that he had a balance remaining.

Mr. DONOHUE. The time of the gentlewoman from New York has expired.

Mr. Mezvinsky.

Mr. MEZVINSKY. Thank you. I intended to follow-up on that point. Now, as I understand, one, that Mr. Rebozo personally requested you to come to the White House for that conference, is that right?

Mr. KALMBACH. Congressman, he had talked to me earlier, the prior week, asking that I meet with him, and that he wanted to talk with me about a matter, and I had several things that I wanted to talk to him about pertaining to the President's personal matters.

Mr. MEZVINSKY. Now, as I understand, also in that affidavit which was filed by Mr. O'Connor relating the details that you have just pointed out here as to the payment of funds to the President's family, as well as to Rose Mary Woods, is that right? Has Mr. O'Connor filed an affidavit concerning that conversation that was made with you on April 30?

Mr. KALMBACH. Mr. O'Connor has confirmed the fact that following my meeting with Mr. Rebozo on April 30, as well as following my meeting with him on May 1, I informed Mr. O'Connor, as my counsel, of what I discussed with Mr. Rebozo.

Mr. MEZVINSKY. Now, were there any other conversations with Mr. Rebozo about this payment of funds coming out of the \$100,000?

Mr. KALMBACH. There were three conversations in total with Mr. Rebozo relative to this matter. On April 30, May 1, and on or about January 8, 1974. and the meeting on January 8, 1974, Mr. Rebozo, in the course of 1 hour or 1 hour and 20 minute conversation is a very brief statement stated to me Herb, undoubtedly I have not told you that

when I went into the box I found that the funds that I had received from the Hughes people, or from Hughes, had not been disturbed.

Mr. MEZVINSKY. Which was contrary to his first story that he gave you on April 30, right?

Mr. KALMBACH. April 30, and May 1, yes, sir.

Mr. MEZVINSKY. Now, on another matter, you pointed out this unusual phone call at 1:45 in the morning at the Madison Hotel regarding the President's taxes, and that was almost simultaneous to the report coming out by the joint committee, is that right?

Mr. KALMBACH. Yes, sir: it's about the same time.

Mr. MEZVINSKY. Right. Just as a curious point—

Mr. KALMBACH. I'm sorry, Congressman. I don't have a definite time in mind as to when that report came out, but my general recollection is that it was about this time.

Mr. MEZVINSKY. Did you talk to Mr. De Marco following that phone call about the tax report, just as a point that I would just be interested in, since he was your partner, and since he had prepared the return.

Mr. KALMBACH. You mean after the phone call?

Mr. MEZVINSKY. Yes, right.

Mr. KALMBACH. From the President?

Mr. MEZVINSKY. Yes.

Mr. KALMBACH. Yes, sir. I advised him of that telephone call.

Mr. MEZVINSKY. Now, would you think that this was an unusual act to receive a call from the President at close to 2 in the morning regarding the tax matter? Had this happened before? Had you had many calls from the President at a quarter to 2 in the morning?

Mr. KALMBACH. No sir. And in fairness, Congressman, I think that he placed the call, I know it was 1:45 his time, and he felt that he was calling me at a quarter of 11 my time in California. and I think the telephone operator just put through the call to the Madison.

Mr. MEZVINSKY. He placed it from Washington, is that right?

Mr. KALMBACH. Yes, sir. That's my understanding.

Mr. MEZVINSKY. Now, I have a question regarding the situation as to the large payments of money. Here we have commitments of \$100,000 and \$250,000 and they are all in cash. Was there any discussion at all about if they pay it in cash they may not have any gift tax consequences, because there is no indication about gift tax here at all, is there, and shouldn't they have had to pay gift tax?

Mr. KALMBACH. Congressman, I don't recall any conversations about gift tax, gift tax aspects. I simply disbursed the funds at the direction of the White House.

Mr. MEZVINSKY. So, they just gave you cash, and it is my understanding that the funds were not given to 30 different committees, they all went to one fund, is that right?

Mr. KALMBACH. Yes, sir. These funds that I received went into my trust fund.

Mr. MEZVINSKY. Now, the last point then, regarding the matter of the President's finances and taxes, you have testified on that. It is fair to say, is it, Mr. Kalmbach, that the President did take notice and did take a personal interest in his properties as well as his personal finances? Is that a fair statement?

Mr. KALMBACH. He had—

Mr. MEZVINSKY. That he took a close personal view as to these matters?

Mr. KALMBACH. To the extent that I spoke with the President he was very much aware of his—of the San Clemente property and the improvements to the property, and the beauty of the property, but as I have stated, Congressman, over the years I think that the totality of my visits alone with him were six or seven times. Other than that I was dealing through Mr. Ehrlichman and Mr. Dean as to his personal legal affairs.

Mr. MEZVINSKY. Now—

Mr. DONOHUE. The time of the gentleman has expired.

Mr. MEZVINSKY. I will just finish the last question, Mr. Chairman.

Is it a common practice of your law firm when you fill out deeds, such as the deed of the gift of papers of 1969 that you, that supposedly you may destroy them, or possibly lose them, which is the testimony that Mr. DeMarco gives regarding the 1969—

Mr. LATTI. Mr. Chairman, can I object to the question. The time of the gentleman has expired.

Mr. MEZVINSKY. I was in the midst of my question and I would hope I could finish it.

Mr. MCCLORY. And it is further objectionable. You couldn't have a pattern of losing a deed. Come on.

Mr. MEZVINSKY. Do you have a record, Mr. Kalmbach, and I will rephrase it, where any deed that has been supposedly executed by a member of your firm, have they been lost?

Mr. KALMBACH. Congressman, I don't have a recollection on that, independent recollection, and I could not be responsive other than it that way.

Mr. MEZVINSKY. Thank you. I appreciate your candidness. Thank you.

Mr. DRINAN. Mr. Chairman, I think I reserved 1 minute. I would just like to have the witness clarify one thing.

Mr. DONOHUE. May I inform the gentleman from Massachusetts that the timekeeper has informed me you have 36 seconds.

Mr. DRINAN. I will ask it in 36 seconds.

Mr. DONOHUE. A fast talker.

Mr. DRINAN. I understand that the President urged you, Mr. Kalmbach, to represent Mr. Rebozo in this transaction. And I don't have it clear, and I don't think the members of the committee have, and for the sake of the record would you indicate once again the three conversations with Mr. Rebozo and the nature of the whole transaction in which you represented Mr. Rebozo at the request of the President?

Mr. KALMBACH. Congressman, in fairness, when I spoke to Mr. Rebozo on April 30, 1973, after he asked me if it was acceptable to me to go on an attorney-client basis, he simply stated that the President had requested or the President suggested that he talk to me rather than to Maury Stans. That is my best recollection as to exactly what Mr. Rebozo said to me.

Following that, then he went into the receipt of these funds from Hughes, and it was, it is my recollection that \$50,000 was received in 1969 and \$50,000 in 1970, that he had held the funds, but that in the interim, part of the funds had been disbursed to Rose Woods, and that was on the statement of Mr. Rebozo. And I have no other information of that other than that, and part to Donald Nixon, part to Ed

Nixon, and part to others, but indicating to me that there was a balance remaining under his control.

He indicated further that he would be meeting with the IRS people within a matter of 2 or 3 weeks, and asked for my counsel as to what was the—what way—or what he should do.

I replied to him after several questions back and forth as to this situation, I replied to him that my best counsel to him was to take the balance of the funds, was to hire the very best tax lawyers that he could find, take the balance of the funds and give that balance to this particular tax lawyer, and then together with the balance of the funds give a listing of everyone to whom he had given these funds, and then obtain from these individuals the backup as to what they had done with the funds that they had received. Give it to the tax lawyer, and then the tax lawyer in turn lay it out to the IRS. And that was my counsel.

Mr. DONOHUE. The time of the gentleman has expired.

Mr. DRINAN. Thank you, sir.

Mr. DONOHUE. Mr. Kalmbach, I think you stated that you were a participant in the campaigns of 1962 in which Nixon was a candidate, when he was a candidate for Governor in California?

Mr. KALMBACH. Yes, sir. That is correct.

Mr. DONOHUE. Now, you were also a participant in the campaign of 1968?

Mr. KALMBACH. That is correct.

Mr. DONOHUE. Were those campaigns carried on in the same manner as the campaign of 1972?

Mr. KALMBACH. Not to—not to my knowledge, Congressman. In the 1962 campaign I was involved really in the organization of the campaign, and in the 1968 campaign I was involved in it as associate finance chairman. And my primary duty through the 1968 campaign was the appointment of finance chairmen for each State throughout the United States, and the appointment of eight regional chairmen.

In addition to that, I did do some fund raising during the 1968 campaign.

Mr. DONOHUE. Were the transactions in connection with the 1968 campaign carried out on a cash basis, similar to the transactions in the 1972 campaign?

Mr. KALMBACH. No, sir. There was cash involved in the 1968 campaign, but to my knowledge it was at—there was not a—it was not in a major way at all. I think there was cash used in the campaign, but to my knowledge, not in any major way.

Mr. DONOHUE. In other words, most of the transactions insofar as the payment of expenses were carried on by check?

Mr. KALMBACH. By normal check, yes, sir. That is my understanding, and that is my recollection. I think there were some expenses that were paid in cash, but again, Congressman, my recollection is that it was on a fairly moderate level.

Mr. DONOHUE. But that wasn't so in the 1972 campaign?

Mr. KALMBACH. Well, in the 1972 campaign, of course, in cash, in the cash in which I was involved through these years, it was a light year's difference, yes, sir.

Mr. DONOHUE. Now, how much money was turned over to you in the first instance as a surplus from the 1968 campaign?

Mr. KALMBACH. Congressman, the total amount was \$1,098,000, almost \$1.1 million in cash.

Mr. DONOHUE. That was in cash also?

Mr. KALMBACH. \$1.1 million in cash, \$1,098,000 was my best information, precise recollection, was \$570,000 was received by me in the form of a checking account balance at the National Bank of North America in New York.

Mr. DONOHUE. And what did you do with the \$1 million in cash?

Mr. KALMBACH. The \$1 million, the \$1,100,000 I received in deposits in two separate safe deposit boxes, and then I in turn disbursed from these safe deposit boxes at the express direction of Mr. Haldeman or some other persons clearly standing in his shoes.

Mr. DONOHUE. Now, after you made these payments at the direction of Mr. Dean, at sometime you sat in with Mr. Ehrlichman and he assured you that everything was all right, and that you shouldn't be worrying about it?

Mr. KALMBACH. He assured me, Congressman, again, there was the statement within his office on July 26 that this was the humanitarian and the decent thing to do for these people, and that Mr. Dean had the authority, that it was proper, and that it was to go forward.

Mr. DONOHUE. Proper and legal?

Mr. KALMBACH. And to go forward.

Mr. DONOHUE. Mr. Ehrlichman is a lawyer, isn't he?

Mr. KALMBACH. Yes, sir; he is.

Mr. DONOHUE. Now, and you entertained his thought, or thought expressed by him until one day when you were sitting with Ulasewicz and he suggested something that caused you much concern?

Mr. KALMBACH. Yes, sir. And this was when——

Mr. DONOHUE. Now, what did he say to you?

Mr. KALMBACH. Congressman, that was within 2 weeks of my conversation with Mr. Ehrlichman in California. And Mr. Ulasewicz at the time said I gave him the \$75,000 that I had received from Mr. Jones again had cautionary words which were in addition to words he had given to me earlier.

Mr. DONOHUE. Well, what were the words?

Mr. KALMBACH. And the words I remember, with my best recollection, is that he said, Mr. Kalmbach, I don't think this is something you should be involved in. I remember too an expression that he had, and he said I don't think this is kosher. I remember he made that expression. And I trusted Mr. Ulasewicz. He was a professional police officer and a man to be trusted. And when this man made these observations to me, this was sufficient to bring back all of this concern upon me.

Mr. DONOHUE. Well, he was an ex-police officer, not a lawyer, and he wasn't a friend of yours prior to the time he started handling these sums of money at the direction of Mr. Dean.

Mr. KALMBACH. Well, he was—he was employed, or I was directed in mid-1969 to compensate Mr. Ulasewicz for his compensation and expenses for work that I advised was investigative work that he would be doing on behalf of the White House, and I became acquainted with him over those years.

Mr. DONOHUE. In other words, you gave more weight to his suggestion than you did to the suggestions made by your dear friend, Mr. Ehrlichman?

Mr. KALMBACH. Well, sir, after that meeting on July 26 with Mr. Ehrlichman I went out and resolved that I was—my concern was not well founded, and I was reassured. But, that reassurance was fragile, and when I met with Mr. Ulasewicz, and in the way he just looked straight at me and laid it out to me, I just knew within my own mind that this was something I would just stop right then and there, and I did. And I didn't raise any additional funds from that time forward.

Mr. DONOHUE. I thank you. I have no further questions.

The CHAIRMAN. Mr. Kalmbach, did at any time other than the occasion you now mentioned concerning the forewarning by Mr. Ulasewicz, you consider these concerns and independent of seeking any assurance from Mr. Ehrlichman, seek reassurance from anyone else that everything was proper?

Mr. KALMBACH. Mr. Chairman, I had been admonished by Mr. Dean, and then again by Mr. Ehrlichman that I should not talk to anyone and I did not. I did not talk to anyone other than the people I have named.

The CHAIRMAN. As a man of honor, and a man who has shown at least this committee that you have some sense of honor and a feeling as you did at that time, did you not feel impelled though, despite Mr. Dean's suggestion to you, that it was necessary to go to some independent source to inquire?

Mr. KALMBACH. Well, Mr. Chairman, when I finally decided to desist from this program, it was right after I saw Mr. Jones and, of course, right after I saw Mr. Ulasewicz. I just knew within my own mind that I would not continue. I didn't—I was not sure at that time that what I had been doing or the activity was improper. But, I knew that it was something that I would not continue in.

Now, again I have made the statement that Mr. Dean was the one that directed me initially to become involved in this. Mr. Ehrlichman reaffirmed Mr. Dean's direction, and I knew that these people were people who were senior people, and I thought to myself that maybe, maybe my concern was misplaced. I just knew that I didn't want to become further involved, and I did not go to anyone for counsel. I kept the confidence that had been imposed upon me.

The CHAIRMAN. When you state further involved, further involved in what? What was your state of mind. Was it—and this is not leading, but merely to inquire—that you might have been involved in being part of a coverup?

Mr. KALMBACH. No, sir. I was concerned as to the propriety of this activity. I knew that the secrecy, all of the factors that I have already related, plus Mr. Ulasewicz's cautionary words, it was sufficient to me that I didn't want to be involved in this activity any longer, and I desisted from that point forward on raising any additional funds.

The CHAIRMAN. Thank you. Did Mr. Kalmbach at any time ever question the authority of Mr. Haldeman or Mr. Ehrlichman and ask them whether or not their authority came from some higher source that had asked you to do the things that you were involved in?

Mr. KALMBACH. No, sir. I did not.

The CHAIRMAN. You did not feel it necessary to do so?

Mr. KALMBACH. I did not do so.

The CHAIRMAN. Why?

Mr. KALMBACH. I, Mr. Chairman, when I was directed by these people, I just didn't do that.

The CHAIRMAN. Can you state why you didn't do it? I mean—

Mr. KALMBACH. I just felt that when they advised me to do this that they had the authority and it would be presumptuous of me to question the authority.

The CHAIRMAN. Had you any indication or any reason to be sure that they had that authority? Had anyone ever said to you, whatever Mr. Ehrlichman or whatever Mr. Haldeman may say that you carry that out?

Mr. KALMBACH. Well, Mr. Chairman, my nature is such that I had absolute trust in these people.

The CHAIRMAN. I know, Mr. Kalmbach. But, I asked you this question, did anyone ever say to you when Mr. Haldeman and Mr. Ehrlichman give you instructions, they have authority to do so, and you carry that out?

Mr. KALMBACH. No one, no, sir. No, I don't recall anyone every saying that to me. I just assumed that.

The CHAIRMAN. Thank you very much, Mr. Kalmbach.

Mr. KALMBACH. Yes, sir.

The CHAIRMAN. I want to thank you, Mr. Kalmbach, and—

Mr. JENNER. Mr. Chairman?

The CHAIRMAN. Yes, Mr. Jenner.

Mr. JENNER. Forgive my interruption, Mr. Chairman. I have three housekeeping duties, questions to ask the witness.

The CHAIRMAN. Three housekeeping duties and a question?

Mr. JENNER. Well, I have three exhibits that I must identify for the record.

The CHAIRMAN. Mr. Jenner.

Mr. JENNER. Mr. Chairman, ladies and gentleman of the committee, in the examination by Congressman Brooks there was the reference to three documents, and during the course of that examination, Chairman Donohue recognized me to number those exhibits as Kalmbach exhibits 21 and 22. For the purpose of the record, Kalmbach exhibit No. 21 for identification reads in the top line, Riggs National Bank Safe Deposit Box No. E429. Congressman Brooks also produced what was identified with the permission of Chairman Donohue, Kalmbach exhibit 22, which is for purposes of identification in the record a letter from Mr. Rebozo signed Bebe to Mr. Kalmbach dated April 28, 1969.

In the examination of the questioning of Congresslady Jordan of this witness, there was mentioned and identified a memorandum of September 24, 1970, and I have identified that, with your permission, Mr. Chairman, as Kalmbach exhibit No. 23. And the top line of that exhibit reads "September 24, '70 at "21" with TWE & JAG." And the document is on lined paper which Mr. Kalmbach has stated that he has been using.

And Mr. Kalmbach, I will ask you one question. Is that memorandum in your handwriting?

Mr. KALMBACH. Yes, Mr. Jenner, it is.

Mr. JENNER. And it is the memorandum to which reference is made in your testimony which Congresslady Jordan was examining you about?

Mr. KALMBACH. That is correct.

Mr. JENNER. Mr. Chairman, I request that the exhibits Nos. 21, 22, and 23, be made a part of the record.

The CHAIRMAN. So ordered.

[The document referred to was marked Kalmbach exhibit No. 23 and follows:]

Sep 24 '70 @ "21" with TWE & JAG:

- ① Per TWE - 7-15 check has gone to Del & the other three checks will be released in weekly sequence hereafter, e.g.
- | | | |
|------------|------------|------------------|
| 250 in NB | 450 Bal | |
| 300 in Chi | 1150 total | |
| 150 in Del | will put | 150 in Chi = 450 |
| | | 300 in Del = 450 |
| | | Total: 900 |
| | | Calif. 250 |
| | | Total: 1150 |
- ② Procedure to convert JM-TPA monies into various campaigns.

(a) Instruct the acct to issue multiple checks to each

(b) Those checks then to be delivered to JAG - who then sends them to the various state campaigns with the covering letter indicating that these monies are contributions from once JM. bcc: HWK, TWE

(c) Answer to JM - if he wonders where the other thank you letters are - the rest of the monies are in various non-reporting state committees, in green, and ^(other person) held over for 1972.

Mr. SEIBERLING. Mr. Chairman, are we supposed to have copies of this No. 23?

Mr. JENNER. Yes. We will make copies, Congressman Seiberling. We just received it a few moments ago.

The CHAIRMAN. Thank you very much Mr. Kalmbach and Mr. O'Connor, and you are excused. We appreciate your coming here.

Mr. KALMBACH. Thank you very much.

The CHAIRMAN. And before the committee leaves, I recognize the gentleman from New York for a unanimous-consent request.

Mr. SMITH. Mr. Chairman, I make a request for unanimous consent that the scope of the testimony of Mr. Herbert Kalmbach be made public, as we have done with the other scopes.

The CHAIRMAN. Without objection.

Mr. DENNIS. Mr. Chairman, Mr. Chairman?

The CHAIRMAN. Mr. Dennis.

Mr. DENNIS. The Chair will recall that last night I threw forth a suggestion about an additional witness. I would like, without belaboring the matter, to urge it again. It seems to me we have heard testimony every day here about this man Hunt. He goes all through this case. And he is the man who is supposed to have tried to blackmail the President of the United States, the man who is supposed to have gotten \$75,000. He is the man who said he had commitments from somebody. I don't know how his testimony would help or hurt, but it seems to me a very odd thing to close the hearing without trying at least to hear from him.

He might take the fifth amendment, but I kind of think we ought to give him a chance, and I wondered if the Chair had considered that any further?

The CHAIRMAN. Well, the Chair would like to advise the gentleman that the name of Howard Hunt was included on the list of those witnesses who were under consideration by the committee as to whether or not they would be called, and my recollection is that the committee action was such that it elected not to do so. And as the gentleman knows, it would entail another committee meeting, and the gentleman from Indiana knows that we have now extended the time already a couple of times, twice already, and there is no meeting in sight until next week for us to schedule the consideration of any other business. And therefore, I must advise the gentleman that I believe that this is a matter that I think the committee will have to treat in just this manner, and that it has disposed of it already.

Mr. DENNIS. Well, Mr. Chairman, I move that we extend the hearings an extra day, issue the subpoena to Mr. E. Howard Hunt, and call him as a witness unless he claims the fifth amendment.

Mr. RANGEL. Mr. Chairman, I think that is out of order, even though it makes a lot of sense. But I think parliamentarily, it is just out of order.

Mr. DENNIS. I don't think it is out of order.

The CHAIRMAN. I must advise the gentleman from Indiana that the question of the calling of witnesses is not a proper matter to come up before the hearing, but it is only a paper matter that can come up before a meeting. Therefore, I would advise the gentleman that I will be glad to discuss it further with the ranking Republican, but I offer him no hope that we are going to issue a subpoena for Mr. Hunt.

Mr. DENNIS. Mr. Chairman, I would respectfully suggest that this is a matter that is quite in order. I don't understand the basis of holding it not in order.

Now, I have made a motion. I would like a vote on it.

Ms. JORDAN. Mr. Chairman, may I be heard in opposition to that motion?

The CHAIRMAN. Yes.

Ms. JORDAN. These hearings were extended, the phase of calling the witnesses was extended for 1 day for the purpose of calling Mr. Kalmbach. That was done by unanimous consent. Mr. Kalmbach was included on the original list of witnesses authorized to be called by this committee. The gentleman from Indiana would now bring up a new name which has not been previously considered by this committee, and it must, Mr. Chairman, be considered in a committee meeting in the same fashion that we designed the first witness list.

The CHAIRMAN. The gentlelady is absolutely correct.

Mr. DENNIS. Mr. Chairman, if I may be heard, the lady got her extension by unanimous consent. I am trying to do exactly the same thing by a motion. I don't know why a motion isn't as good as a unanimous consent, except that you don't get it as easy.

The CHAIRMAN. I might advise the gentleman from Indiana that that was permissible under the motion we had originally adopted that the committee could extend the time of the hearing of those witnesses on that designated list.

Mr. DENNIS. Will the Chair advise me, if I may respectfully inquire, when we have ever had to have a special committee meeting in order to entertain a motion to call a witness? I have never heard of such a thing before.

Mr. MANN. Mr. Chairman, may I speak?

The CHAIRMAN. Mr. Mann.

Mr. MANN. Mr. Chairman, I must respectfully disagree with the Chair's position on this matter. At the time that I made my statement with reference to the calling of witnesses, I inquired of the Chair whether or not during the course of these hearings, we could determine whether or not additional witnesses could be called. I think my recollection is correct.

The CHAIRMAN. I am sure the gentleman's recollection is correct.

Mr. DENNIS. I am sure the gentleman's recollection is correct. I remember.

Mr. LATTA. Mr. Chairman?

The CHAIRMAN. Mr. Latta.

Mr. LATTA. I move the previous question.

Mr. DENNIS. That is all right.

The CHAIRMAN. The gentleman moves the previous question. The question is on the motion to extend the hearings—

Mr. DENNIS. And call the witness, E. Howard Hunt.

The CHAIRMAN. Well, I have ruled that that is out of order. Now, if you want to extend the hearings for the purpose of extending the hearing and make such a motion, then we will entertain that motion, which merely suggests that the hearing will be extended.

Mr. DENNIS. Well, on what basis, if I may respectfully inquire, does the chairman divide my motion and hold part of it in order and the other part not in order? I don't object to extending the hearing, but

the reason I want to do it is to call this witness. And, of course, as I made it, it included both. I don't see on what basis you divide it, exactly. Maybe I am mistaken.

Mr. LATTI. Mr. Chairman?

The CHAIRMAN. Mr. Latta.

Mr. LATTI. I move the previous question. Let's vote.

The CHAIRMAN. The question is on the motion of the gentleman from Indiana. All those in favor, please say aye.

[Chorus of "ayes."]

All those opposed?

[Chorus of "noes."]

The noes have it.

Mr. DENNIS. Mr. Chairman, there is a division. I ask for a division.

Mr. RANGEL. Mr. Chairman, is the motion just to extend the hearings?

The CHAIRMAN. Yes.

Mr. DENNIS. No, I don't think so. He said the gentleman from Indiana's motion. That wasn't my motion.

Mr. RANGEL. Well, the gentleman's motion was ruled out of order except in relation to extending the hearings.

Mr. DENNIS. Whatever it was, I ask for a division.

The CHAIRMAN. Division is requested. Will all those in favor of the motion, please raise their hands?

Five for.

Mr. DENNIS. I counted six, myself.

The CHAIRMAN. All those opposed to the motion?

Sixteen.

Mr. DENNIS. Mr. Chairman, never let it be said that I died easy. I will ask for a rollcall.

Mr. SEIBERLING. I move we adjourn, Mr. Chairman.

The CHAIRMAN. A motion to adjourn—

Mr. DENNIS. I have asked for a rollcall.

The CHAIRMAN. A motion to adjourn takes precedence.

Mr. DENNIS. Mr. Chairman, that is not true. That is not parliamentary law. We have got a vote on the floor. I have asked for a rollcall. You can't do that, want to adjourn. Do it after you beat me on the rollcall. Let's do it right.

The CHAIRMAN. I am going to ask for a show of hands, since a rollcall is demanded and one-fifth of the members will have to request a rollcall.

Mr. DENNIS. The chairman is correct on that and I will put my hand up.

The CHAIRMAN. An insufficient number and the rollcall is rejected.

Mr. St. Clair, on tomorrow at 10 o'clock, Mr. St. Clair is invited to present his response, and I understand that you have requested a certain amount of time and that is at your disposal.

Mr. St. CLAIR. Thank you very much, Mr. Chairman.

The CHAIRMAN. And the hearing is recessed until tomorrow morning at 10 a.m.

[Whereupon, at 10:47 p.m., the hearing was recessed, to reconvene at 10 a.m., Thursday, July 18, 1974.]